

EXHIBIT ~~111~~ 5

DATE 2/15/13

SB 43

*Disability Rights Montana v. Montana Department of Justice*  
*Cause No. DDV-2012-87*  
Montana First Judicial District Court  
Lewis and Clark County

Montana Department of Justice Investigative Report\*  
allowed for dissemination by Order of the Court on April 25, 2012

\*This report contains information that is sexual, and sometimes graphic, in nature.







**PRESS RELEASE**

Disability Rights Montana is holding a Press Conference today at **10:30 a.m.** at 1022 Chestnut Street, Helena, Montana.

April 25, 2012

The First Judicial District Court ordered the release of a Montana Department of Justice (DOJ) investigative report detailing the sexual abuse investigation conducted between June and October 2010 at the Montana Developmental Center (MDC) in Boulder. Disability Rights Montana (DRM) filed a complaint seeking publication of the report. Judge James P. Reynolds approved the release of a redacted version of the report on April 25, 2012.

DRM and the DOJ told Judge Reynolds that residents of the facility and non-employees who are named in the DOJ report have a right to privacy. Their names have been redacted from the released report. The names of MDC employees who contributed to the investigation in an investigatory, supervisory, or other substantial capacity appear in the redacted report.

DRM wanted this report to be made public because it believes that the citizens of Montana have a strong right to know when state employees violate the public trust. Treating and caring for people with developmental disabilities is a particularly important public trust. This report tells the story of how one of those employees violated that trust by sexually assaulting at least one of the people he was supposed to be protecting. The report also details how five other women may have been sexually abused all because of the State's failed client protection system.

This report demonstrates that:

- The internal protections at MDC to investigate and respond to abuse by employees against patients are inadequate, making all residents involuntarily committed there by the State of Montana at risk of being abused and neglected.
- Some MDC employees do not understand their legal responsibility under Montana's mandatory reporting statutes.
- MDC internal investigations are not objective or impartial. There is an obvious, substantial conflict of interest between the person doing the investigation and his employer.
- The MDC culture instills fear in the residents. Residents believe that they will be punished if they report abuse and neglect by employees.
- The very facility to which Montana entrusts people with developmental disabilities for safety and treatment is abusive and unsafe.

Date: April 25, 2012  
RE: Department of Justice Report  
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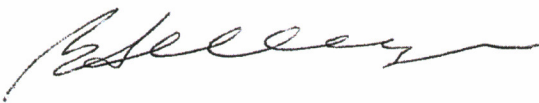
DRM believes that much of the abuse that is uncovered in this report could have been avoided. The lack of leadership by the Department of Public Health and Human Services (DPHHS) and the low expectations it has of its employees is a root cause of the sexual assault described in this report and the continued fearful and abusive environment.

DRM will make recommendations to DPHHS and policymakers based on the findings in the DOJ report and its own 30 year experience of monitoring MDC. DRM will demand reform. At a minimum, DRM will demand a truly independent investigative process of resident abuse and neglect allegations.

MDC is the most expensive institution in the State. It costs taxpayers 15.7 million dollars per year – or \$770.00 per person, per day – to house people with developmental disabilities at MDC. Montanans have a right to expect skilled care, good treatment outcomes, and a safe environment in exchange for their dollars.

The report released by the Court is available on DRM's web site at [www.disabilityrightsmt.org](http://www.disabilityrightsmt.org). DRM would encourage the citizens of Montana to download and review the report. If you have questions, please call DRM at 1-800-245-4743.

DISABILITY RIGHTS MONTANA



Bernadette Franks-Ongoy  
Executive Director



***Disability Rights Montana v. Montana Department of Justice***

***Cause No. DDV-2012-87***

**Montana First Judicial District Court**

**Lewis and Clark County**

**Montana Department of Justice Investigative Report\***

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MONTANA DEPARTMENT OF JUSTICE

INVESTIGATIVE REPORT

CASE NO: MC 10-06-02  
DATE: May 24, 2010  
AGENT: Agent Phil Matteson  
SUBJECT: Sexual Intercourse without Consent, Sexual Assault, Infected  
Person Expose another to Sexually Transmitted Disease  
Failure of Mandated Reporter to Report

SUSPECTS: Allen Ray Whetstone  
DOB: [REDACTED], 1962  
SOC: [REDACTED]  
Boulder, MT 59632  
406-[REDACTED]

S2  
DOB: [REDACTED]  
SS# [REDACTED]  
Boulder, MT 59632  
406-[REDACTED]

Keith Reeder  
Client Protection Specialist/Chief Investigator  
Montana Developmental Center  
310 4<sup>th</sup> Street  
Boulder, MT 59632  
(406) 225-4528

VICTIMS: [REDACTED] V1  
DOB: [REDACTED]  
Client, Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

[REDACTED] V2  
Client, Montana Developmental Center

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DISSEMINATE ONLY IN ACCORDANCE  
WITH 44-5-301 THROUGH 305 MCA



310 4<sup>th</sup> St  
Boulder, MT 59632

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V3

Client, Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

DETAILS:

On June 7, 2010 Montana Department of Justice, Division of Criminal Investigation (DCI) Supervising Agent Arlyn Greydanus assigned Agent Matteson to conduct a joint investigation with DCI Agent Cody Danielson into an allegation involving a staff member at Montana Developmental Center (MDC) having sexual contact with a developmentally disabled female client who resided there. The staff member had supervisory authority over the client. Supervising Agent Greydanus advised he would forward the referral materials to Agent Matteson and a briefing would be conducted once the involved persons had been afforded an opportunity to review the referral materials. On June 8, 2010 Agent Matteson received a package of referral materials from Agent Danielson. The materials included Jefferson County Sheriff's Office (JCSO) reports, statements from MDC staff members, MDC reports, and CD's containing recordings of interviews conducted by JCSO Chief Deputy Bob Gleich and Boulder Police Officer Dusty Anderson.

Bob Gleich  
Jefferson County Sheriff's Office  
110 South Washington St.  
Boulder, MT 59632  
(406) 225-4075

Kellie Doherty  
Jefferson County Attorney's Office  
P.O. Box H  
Boulder, MT 59632  
(406) 225-4010

Carolyn Begnaud  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

Leigh Ann Holmes  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632



Déb Gabse  
Staff, Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

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Upon reviewing the materials Agent Matteson understood that on May 24, 2010, Whetstone had supervisory authority over [V1] while Whetstone supervised work details. Whetstone and [V1] were alone watering plants. When [V1] returned to her housing area, another staff member, Carolyn Begnaud, observed her with candy in her hand. Begnaud asked [V1] where she obtained the candy and [V1] told Begnaud that Whetstone had given it to her in return for sex. Begnaud notified her supervisor immediately. That report was given to Keith Reeder, a client protection specialist at MDC. Reeder's job duties were to investigate allegations of wrongdoing involving clients and employees of MDC. Reeder spoke briefly to [V1] and advised Leigh-Ann Holmes, Qualified Mental Retardation Professional (QMRP), that [V1] had recanted the sexual allegation. However, on May 25, 2010, [V1] told Holmes that the sexual contact had indeed occurred and described the incident in detail, including a description of the blanket Whetstone put down on a surface for [V1] to lay on. [V1] described the color of the blanket as "orangish-peach." [V1] also showed Holmes and Gabse the location of the incident, a locked/secured room used infrequently by MDC staff.

JCSO Deputy Gleich met with [V1] at the St. Peter's Hospital Emergency Room on or about May 25, 2010, where [V1] had been taken for a medical examination related to the allegation of sexual assault. Gleich was accompanied by Kelly Doherty, a paralegal and interviewer who works for the Jefferson County Attorney's Office. According to Gleich's investigative report, [V1] told Gleich and Doherty that she and two other MDC clients were on a work detail on May 24, 2010. The work detail ended at approximately 10:00 a.m. and Whetstone, who was [V1]'s work supervisor, sent the other clients back to their dormitory. He and [V1] then continued to water plants in the vocational building. [V1] said that they had sex and Whetstone then gave her "Skittles" candy. [V1] said the sex happened in the room "where they blow up balloons." [V1] described the sexual contact in detail to Gleich and Doherty and told them that Whetstone had told her not to tell anyone about the incident or he would get into trouble. Gleich and Doherty asked [V1] about recanting her story when she was interviewed by Reeder and she said Reeder told her to change her story because Whetstone could get into a lot of trouble and maybe even lose his job. Additionally, [V1] said Reeder told her that if she was lying she would have to go to the Assessment Stabilization Unit (ASU). The ASU was of concern to [V1] because it involved alternative and secure housing on the MDC campus, away from her familiar housing unit, and [V1] was also concerned that the move would take her off of the request list for group home housing.

Dr. [REDACTED]  
St. Peter's Hospital  
2475 Broadway



Helena, MT 59601  
(406) 442-2480

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██████████  
St. Peter's Hospital  
2475 Broadway  
Helena, MT 59601  
(406) 442-2480

V1's rape examination was conducted by ER physician ██████████ and Registered Nurse ██████████. The rape examination kit and V1's panties were placed into evidence at the JCSO by Deputy Gleich. It should be noted that V1's panties had been collected and placed into a bag by Reeder at the time of the initial allegation and then were given to Deputy Gleich and the bag was placed into evidence at the JCSO.

On May 26, 2010, Whetstone allegedly telephoned Reeder and confessed to having sex with V1, but denied penetration. Reeder said he told Whetstone to come to his MDC office immediately. Deputy Gleich subsequently contacted Whetstone at MDC and requested that he come to Gleich's JCSO office to speak about the incident and allegation. Whetstone invoked his right to an attorney after Gleich read the Adults Rights/Miranda Warning to Whetstone and the interview was terminated.

Deputy Gleich's investigation included photographing the room the assault occurred in. He interviewed MDC staff and determined Whetstone had been the person who unlocked the vocational building on the morning of the incident; that Whetstone was in charge of the work assessment and crew and that the other clients returned to their housing units leaving V1 alone with Whetstone. Whetstone's supervisor, Virginia Kraus, told Gleich that Whetstone told her the other clients chose to return to their housing units and that V1 wanted to stay and water plants so he took her to the vocational building to water the plants.

Leigh Ann Holmes was interviewed by Gleich and said that V1 told Holmes about the incident on May 25, 2010. Holmes said she understood V1 originally recanted her story for fear of being placed in ASU which is a secure (locked down) area of the MDC campus, and of losing her eligibility to transfer to a group home. Holmes interview transcripts also documented conversation she had with Reeder which appeared to involve Reeder attempting to discourage her from reporting the incident to outside agencies: *But I talked to Keith and he said, "Well, what's going on?" And I said, "I am taking V1 to the hospital and Debbie Gabse is calling the sheriff's office right now." He says, "Well, Boulder...the city of Boulder has jurisdiction over this." I said, "But, they still have the same dispatcher and Debbie is calling the sheriff's office and I am taking V1" And he said, "You know, if you take V1 in there, they're gonna do a full rape kit." I said, "Yes, I, I do know that." "That's gonna be pretty traumatic for her." I said, "Well, but I'm gonna go with her, Keith. It, it'll be okay." "Well, you know, once you've done the rape kit, this becomes a criminal issue. Once you take her to St. Pete's, this becomes a*



*criminal issue and it's out of our hands." I said, "Yes, I, I'm aware of that. I, we're already calling the sheriff's office." And he says, "Well, I don't know why you'd have to call the sheriff's office. Rick Streib is right there." I said, "I, I know, but I, I feel like this is a conflict of interest since he's here on MDC, as an MDC investigator." "Well, he would do the same thing if he could just...if he were there as, as the chief of police, he would be collecting statements and they would be the same statements that he would be collecting as an MDC investigator." And I said, "Well, you know, I, you're gonna have to sort that out, but I'm taking V1 to the hospital and I'm taking her..." oh, and I said, "I have the e-...the, her clothes and I'm taking them with me 'cause that's what our policy says." He says, "Well, you should just hand those over to Boulder PD. You should just give 'em to Rick. I said, "Our policy says they need to go to the hospital." I said, "Okay. Well, I'm taking 'em."*

Officer Dusty Anderson  
Boulder Police Department  
110 South Washington St.  
Boulder, MT 59632  
(406) 225-4075

W1  
Staff, Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

On May 28, 2010, Boulder Police Officer Anderson conducted a recorded interview with MDC employee W1. W1 said he was good friends with Whetstone. W1 heard some rumors about the incident and went to visit Whetstone at his home after W1 got off work on May 26, 2010. Whetstone admitted to W1 during that visit that he had touched V1 inappropriately. W1 visited Whetstone at his home again on May 27, 2010. During that visit, Whetstone admitted in detail his sexual contact with V1 and said there had been digital penetration of V1's vagina and that Whetstone had ejaculated during the incident.

As a result of Deputy Gleich's investigation, a felony arrest warrant was issued for Whetstone. Before the warrant could be served, Whetstone was reported to have packed up his truck and left his home in Boulder. However, the following Friday night, June 4, 2010, Whetstone turned himself in to the JCSO and was incarcerated pending his initial appearance in court for the charge of the sexual assault of a vulnerable adult, M.C.A. 45-5-502.

For complete details refer to the JCSO reports located in the Documents Section of the case file and the transcripts of the statements recorded by JCSO in the Statements Section of the case file.

On June 11, 2010 a meeting was held at the DCI office in Helena. Bureau Chief John Strandell, Major Case Supervising Agent Arlyn Greydanus, Medicaid Fraud Control Unit



(MFCU) Supervising Agent Debrah Foskett, Montana Child Sexual Assault Response Team (MCSART) Program Coordinator/Forensic Interviewer Dana Toole, Agent Danielson and Agent Matteson attended. Agents Danielson and Matteson were assigned to investigate the criminal case jointly. The MDC provides services to Medicaid recipients providing the Medicaid nexus. Agents were briefed that Department of Corrections was conducting an independent investigation regarding policy and procedures involving the handling of this incident. DCI was to conduct the criminal investigation only. There was information that the suspect in the current incident had been the subject of two prior allegations. It was agreed that Licensed Clinical Social Workers (LCSW) Dana Tool and Michelle Miller would provide support in the way of forensic interviews of the developmentally disabled clients. The suspect in this case was reported to be approximately a 20 year employee of MDC with a break in service there approximately between 2004 and 2006. His prior duty assignments have placed him in care of bedridden and non communicative developmentally disabled clients. The point of contact for DCI was designated by Department of Public Health and Human Services (DPHHS) as Bob Runkel (406-444-9055). Investigative strategy was planned during this meeting. The Jefferson County Sheriff's Office/ Boulder Police Department interviews provided on CD with the referral were copied and the copies were submitted for transcription.

Keith Reeder  
Client Protection Specialist/Chief Investigator  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632  
(406) 225-4528

On June 14, 2010 Agent Matteson contacted Investigator Keith Reeder at MDC to request copies of his investigative reports involving this incident, as well as any other investigations involving allegations against the suspect, Allen Whetstone. Investigator Reeder advised that he was finished with one report, had a finalized report from a contract investigator and was working on another report. Agent Matteson requested copies of the reports as soon as possible upon completion. Reeder agreed and advised that he was planning to interview two additional potential victims today. He advised that one victim, V2 (Last name unavailable during this conversation, but later identified as V2) had been overheard by staff talking to V1 after this incident, and stated words to the effect that 'Allen does that to me too'. The other victim had made allegations on December 3, 2008 and December 27, 2006 against Whetstone. Reeder had investigated both allegations and advised that there was not sufficient grounds to proceed. Agent Matteson requested copies of those reports. Reeder agreed to provide those reports as well.

Agent Matteson advised Reeder that DCI would prefer to have all potential victims interviewed first by a certified forensic interviewer, and any administrative interviews could be accomplished after that was completed. Reeder advised Agent Matteson that he had been directed to complete these interviews and that millions of dollars in funding was



riding on timely completion of his investigation. Agent Matteson advised Reeder that the criminal investigation would take precedence over the reporting requirements to maintain funding. Agent Matteson advised that DCI would work with MDC in cooperative parallel investigations, but that any future victim interviews would be done by certified forensic interviewers first. Agent Matteson advised Reeder that if any more potential victims were interviewed without DCI involvement and forensic interviewers involved, that such activity would be considered obstruction of the criminal investigation and the person responsible would be held accountable. Reeder requested that Agent Matteson communicate this to Bob Runkel, who had directed him to complete them. Agent Matteson agreed to contact Runkel immediately, but cautioned Reeder that he should work on providing the requested documents which would expedite DCI's ability to accomplish these interviews in a timely manner.

Bob Runkel  
DPHHS  
111 North Sanders  
Helena, MT 59604,  
(406) 444-9055

Agent Matteson contacted Bob Runkel and explained the situation to him. Runkel expressed that he was unsure of how to proceed as he had never been involved in a criminal investigation and was new to this situation. Agent Matteson explained to him that the criminal investigation required that the potential victims be interviewed first by a forensic interviewer. Any administrative interviews could be conducted later. Agent Matteson explained to him that if the potential victims were interviewed contrary to these instructions from this point forward, someone would be held accountable criminally. Runkel expressed understanding, and noted that he had been instructed to proceed with their investigation by DPHHS chief legal counsel Bernie Jacobs. Agent Matteson notified DCI Bureau Chief Strandell of that information.

Runkel advised Matteson that he was tentatively aware of a total of 6 possible prior allegations involving Whetstone. Runkel advised of the following 5 possible victims and information:

V1 - Current Victim

V2 - overheard by staff since this incident talking to V1 and stating words to the effect, "Allen does that to me too".

R2 - with two prior allegations which had been investigated by Reeder.

R1 - whose family had previously reported her talking about "AI" and "penis" and acting out inappropriate behavioral issues.

Anonymous tip believed to possibly have been from a parent relating to sexual misconduct by Whetstone against clients.

(It should be noted that at the time of this conversation, Runkel was only able to identify these potential victims by first name or initials as shown above.) Agent Matteson requested that Runkel locate the documentation on each of these 6 allegations and provide all documents related to each one as soon as possible. Runkel believed that



Reeder would have them and agreed to call him after this conversation and have Reeder provide them.

Agent Matteson also repeated that none of these potential victims should be interviewed by MDC without DCI involvement, and that DCI and MDC could work together jointly with parallel investigations, but that any proactive activities involving potential victims needed to be cleared with DCI before initiation. Matteson also pointed out to Runkel that the requested documents would be needed in order to complete the forensic interviews with the alleged victims, and that producing these in a timely manner would enable DCI to progress more rapidly, thus allowing MDC to progress with their own investigation. Following this conversation Agent Matteson attempted contact with Reeder but received his voicemail. Agent Matteson left a message for him requesting that the potential victims' documentation be provided as soon as possible so that DCI could prioritize the forensic interviews which would assist MDC. Matteson did not receive a return call. Agent Matteson then received a telephone call from Bob Runkel and Mary Dalton of DPHHS. They expressed concerns over the time it was going to take to conduct the forensic interviews and the need for MDC to complete its' own investigation to maintain their funding. Agent Matteson agreed to prioritize the forensic interviews as soon as the requested materials were provided so that the forensic interviewers would have some knowledge of the allegations concerning each potential victim. Runkel advised that Reeder would have that information substantiating each alleged victim allegation ready for Matteson by the time Matteson arrived in Boulder the next day. Runkel understood the need for prioritizing dissemination of that information so that the forensic interviewers had the knowledge required to conduct their interviews.

Terri McFadden  
Staff, Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

Agent Danielson had scheduled a forensic interview with the victim in the current offense, [REDACTED] V1 for June 15, 2010. The interview was to take place at MDC. Additional potential victims were to also be available for interview at that time. Agent Danielson had been provided a point of contact at MDC of Terri McFadden. Agent Danielson checked in with Ms. McFadden and she introduced Agents to Bobbi Janacaro, Client Services Director, to assist and liaison.

Upon arrival on June 15, 2010, Agents met Reeder who was standing in the reception area of the administration building. Agent Matteson requested the information that Runkel had indicated Reeder would provide. Reeder left briefly and returned with a 3" by 3" yellow sticky note which had six names written on it (V3, V1, R2, R3, R1 and V2) and his final reports on [REDACTED] V1 (The current incident's victim) and prior reports of investigations regarding [REDACTED] R2's allegations. Agent Matteson asked about the other names on the note. Reeder said he believed that they were anonymous tips to the Independent Record. Matteson noted that someone must have documented and investigated something on them and that would at

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least help give a date and time frame. Matteson requested Reeder locate the substantiating info on the remaining names. He left and returned a short time later with a folder with some notes regarding [REDACTED] R1. The requested documentation on [REDACTED] V3 or [REDACTED] R3 was never provided. No separate documentation of any investigation on [REDACTED] V2 allegation was provided other than being listed in the [REDACTED] V1 report.

(The materials provided by Reeder are located in the Documents Section of the case file.)

Cathy Zeeck  
Superintendent  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632  
(406) 225-4410

Agents Matteson and Danielson spoke with Cathy Zeeck the Superintendent of MDC. She advised that the room the offense occurred in was still secured even though the Jefferson County Sheriff's Office was done with their investigation. She advised that the DOC investigator had been given access during his investigation. She advised that access to that area would need to be arranged through Maintenance Supervisor, Bruce Giulio. Keys to that area of the building had been restricted since the incident and a sign had been posted on the door to keep people out. That entire wing of the building was off limits. Ms. Zeeck did agree to continue to maintain security of that room until DCI had an opportunity to process it, and did provide her consent to that activity.

Dale Tunnel  
Department of Corrections  
Montana State Prison  
Deer Lodge MT  
(406) 846 1320 Ext 2455

Steve Marquis  
Undersheriff  
Jefferson County Sheriff's Office  
Boulder, MT  
(406) 225-4075

DCI Bureau Chief John Strandell contacted Agent Matteson by telephone and advised that he had received information that Department of Corrections (DOC) Investigator Dale Tunnel had found a blanket stuffed in a bag around the corner from the room where the incident happened. This blanket was wadded up and stuffed in the top of a bag that contained other things that were apparently neatly folded. The color of the blanket reportedly matched the victim's description. Jefferson County Undersheriff Marquis had collected the blanket as evidence. DOC had been requested by DPHHS to conduct an internal policy and procedure review of this incident. (Agent Matteson later obtained



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copies of Undersheriff Marquis' report, photos and evidence documents from the collection of this blanket. These documents are located in the case file.)

Bobbie Janacaro  
Client Services Director  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632  
(406) 225-4472

Dana Toole  
Montana Child Sexual Assault Response Team (MCSART) Program Coordinator  
Licensed Clinical Social Worker  
Montana Division of Criminal Investigation  
2225 11<sup>th</sup> Ave  
Helena, MT 59620  
406-444-1525

Michelle Miller  
Licensed Clinical Social Worker  
Butte Child Evaluation Center  
445 Centennial Ave.  
Butte, MT 59701  
406-496-6013

Dana Toole and Michelle Miller were assigned to conduct the forensic interviews with the victim and other potential victims regarding other allegations. Bobbi Janacaro, (Client Services Director) briefed the interviewers on personalities, approximate developmental equivalencies and medical issues related to each of the women to be interviewed. Agent Danielson contacted the guardians of each client to be interviewed and obtained consent to conduct the interviews. All guardians of current clients at MDC provided consent. [R3] [R3] was now housed in a group home in [REDACTED]. Her mother refused to provide consent for her to be interviewed. (For details regarding the reasons provided by [R3]'s mother, refer to Agent Danielson's report.)

Bobbie Janacaro provided additional verbal information regarding [V3]'s allegation. She advised that [V3] is a client who is developmentally disabled and bipolar, and has been manic recently. She made a comment overheard by staff on the recreation bus on Friday June 11, 2010 to the effect that [S2] made me lick his dick. Yucky isn't it? This comment was reportedly during a series of comments spoken in a manic state. [V3] also reportedly "parrots" or repeats other things she hears said. [S2] is a long time staff member and he is on administrative leave due to this comment until it has been investigated.

Janacaro also advised that an anonymous call was received a week prior to this date alleging that [R3] was raped repeatedly when she was at MDC. [R3] is now at [REDACTED]. Caller ID identified the caller as [R3]'s mother.

Janacaro advised that there are six female clients in Unit 1 and ten female clients in Unit 4. There are between 60 -64 developmentally disabled clients on campus routinely. All are court ordered commitments.

The Forensic Interviews were conducted by Michelle Miller and Dana Toole. An adjoining room with one way glass was utilized for Agents Danielson and Matteson to observe the interviews and audio was available to monitor the conversation during the interviews. Reeder was invited by Matteson to observe the interviews so that re-interviewing the victims a second time could be avoided as this was intended to be a thorough and complete interview with each client. Reeder did not attend or observe any of the interviews. The interviews were video and audio recorded by Agent Danielson and the recordings were later placed into DCI evidence.

V2

Client

Montana Developmental Center

310 4<sup>th</sup> St

Boulder, MT 59632

V2 was interviewed by Dana Toole. V2 had been overheard by staff talking to V1 about her incident and had made a comment to the effect that 'He does that to me to'. The interview began at approximately 12:25 PM and was concluded at approximately 1:18 PM. During this interview V2 disclosed that Al Whetstone 'stuck his penis inside me' in the paper shredding room. She described laying down on a table. She described and demonstrated that Whetstone licked his hand and touched his penis and put his penis inside her. She also demonstrated their positions.

V2 was able to communicate that this happened more than one time. She was not able to explain when the incidents took place.

(For further details of this forensic interview, refer to Toole's report in the case file.)

Following this interview, Agent Matteson was advised by Janacaro that she believed V2 had been at MDC less than 5 years. MDC records will be obtained to verify V2's time of residency there and establish if the incidents happened within the statute of limitations due to V2's inability to isolate the times of these incidents. Agents later received documents from MDC which indicated her admission date to MDC was [REDACTED]. This clearly establishes that any sexual activity between her and Whetstone happened within the statute of limitations time frame.

V1

Client

Montana Developmental Center

310 4<sup>th</sup> St

Boulder, MT 59632



V1 was interviewed by Michelle Miller. V1 is the victim in the current reported case. The interview began at approximately 1:50 PM and concluded at approximately 2:30 PM. V1 disclosed during the interview that Al Whetstone, whom she described as "a friend of mine", had sex with her in the party room next to the paper shredding room. No other incidents were disclosed. V1 repeated details which were in the initial report to include that Whetstone had given her Skittles candy. Whetstone had told her that if she told anyone he would get into trouble. Matteson noted no discrepancies between her interview and the material documented in the reports of Jefferson County Sheriff's Office. V1 was unable to provide the description of the blanket she had previously described. The interviews were video and audio recorded by Agent Danielson and the recordings were later placed into DCI evidence. (For further details of this forensic interview, refer to Miller's report in the case file.)

R1  
Client  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

R1 was interviewed by Dana Toole. Notes provided by MDC reflected that she had engaged in inappropriate sexual behaviors and written 'Al's Penis' and R1's Vagina' on a wall. Bobbie Janacaro noted that R1 had 3 "Als" in her life. (Al Whetstone, S2 who is another staff member and R4.) The interview began at approximately 2:50 PM and concluded at approximately 3:20 PM. R1 was very fixated on numbers and was largely unresponsive to questions, exhibiting difficulty maintaining a train of thought when she did respond. R1 did not disclose sexual abuse, but did indicate wanting to go to Warm Springs Hospital. The interviews were video and audio recorded by Agent Danielson and the recordings were later placed into DCI evidence. (For further details of this forensic interview, refer to Toole's report in the case file.)

V3  
Client  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

V3 was interviewed by Michelle Miller pursuant to the comment she had been over heard making on the recreation bus about S2. The interview began at approximately 3:34 PM. V3 seemed very uncomfortable in the setting of the interview location and repeatedly questioned if she was in trouble. She did not provide a disclosure of sexual abuse. Upon direct questioning about touching, V3 stated that she didn't want to talk about if someone had touched her. Both Miller and Toole believed that a second interview on another date in a more neutral setting that V3 was more comfortable in might be beneficial. The interviews were video and audio recorded by

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Agent Danielson and the recordings were later placed into DCI evidence. (For further details of this forensic interview, refer to Miller's report in the case file.)

R2  
Client  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

R2 was interviewed by Dana Toole. The interview began at approximately 4:18 PM and concluded at approximately 4:52 PM. R2 demonstrated an apparently higher level of verbal skills than the other clients interviewed. MDC had investigated 2 prior allegations by R2 involving Whetstone. The first report indicated that on December 27, 2006 R2 reported that Whetstone stuck his tongue out at her, touched her buttocks and told her he had a dream about her. Whetstone admitted to these activities except for touching her buttocks. Reeder investigated this incident and his findings stated in part that, "There is no evidence to support Ms. R2's allegation of inappropriate touch to her buttocks, however Mr. Whetstone needs to maintain a hands off approach to Ms. R2 and perhaps additional training concerning Ethics of Touch and additional training into Ms. R2's history of sexual abuse with emphasis on more appropriate ways of interacting with her." Under the Administrative Review comments, Kathleen Zeeck noted in part, that while the allegation was unsubstantiated, Whetstone's actions were unacceptable and he appeared to have been too familiar in his actions with Ms. R2. Ms. Zeeck directed that, "Allen Whetstone will be required to attend Ethics of Touch and Boundaries Training." The second report indicated that on December 3, 2008, Allen Whetstone allegedly offered Ms. R2 \$.50 to touch her private areas. Ms. R2 also alleged that Mr. Whetstone was always talking about having sex with her. The report indicated that statements were taken with 6 individuals during Reeder's investigation. Additionally business records were recovered during his investigation. None of these statements or records accompanied this report. The investigation was closed and ruled "inconclusive" as there was no evidence to support the allegation, with administrative comments that implied Ms. R2 was not credible. (Copies of these investigative reports are located in the case file.)

During the forensic interview R2 spoke of Whetstone wanting to touch her "boobs and butt" and refusing to give her any more money for use at the general store unless she allowed him to. She recalled that after reporting this allegation, that she and Whetstone were not to have contact. After a length of time they were allowed to be around each other again. Once contact resumed he began kicking her in the butt. The interview was concluded at approximately 4:52 PM. The interview was video and audio recorded by Agent Danielson and the recordings were later placed into DCI evidence. (For further details of this forensic interview, refer to Toole's report in the case file.)

Following the forensic interviews, Agent Matteson spoke briefly with Client Services Director Bobbie Janacaro and inquired if she saw any pattern or similarities within these women who had been identified as potential victims, which made them more likely to be



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victimized than other clients. Ms. Janacaro noted that these women were higher functioning than some other clients. Being higher functioning gave them the ability to be involved in vocational activities which gave Whetstone more access to them. Ms. Janacaro also noted that these women were communicative and were able to tell what had happened to them. She noted that some other clients are less communicative and if something similar happened to them, they would be unable to tell.

On June 16, 2010 Agents Matteson and Danielson met with DCI supervisors and briefed the progress of the case. The investigative priorities decided at the meeting included getting physical evidence to the crime lab, getting an investigative subpoena affidavit finished for MDC and obtaining a court order for a buccal swab for Whetstone.

On June 18, 2010 Agents Danielson and Matteson conferred with Jefferson County Attorney's (JCA) office regarding the need for a search warrant to process the scene of the sexual assault of **V1** for evidence. MDC Administrator Kathy Zeeck had provided consent and the scene had been maintained securely since the incident had been reported with controlled documented access allowed to JCSO and the DOC investigator. JCA advised that the consent would be sufficient and no search warrant was required. Agents also briefed the Jefferson County Attorney of progress of the investigation to date, and requested the court order to obtain Whetstone's DNA standard. Agents were advised during this meeting that Christina Neal of the Office of Public Defenders was representing Whetstone.

On June 18, 2010 Agents Danielson and Matteson met with Jefferson County Sheriff, Craig Doolittle. Sheriff Doolittle advised agents that Whetstone had been released from jail after posting bond on June 16<sup>th</sup>, 2010. He provided a copy of Whetstone's booking sheet and copies of the JCSO reports regarding the recovery of the blanket as evidence and the evidence in custody of JCSO. The evidence seals were observed to be intact upon receipt. The evidence was later entered into DCI evidence in Helena by Agent Danielson. Sheriff Doolittle also provided some additional information on the suspect, to include that Whetstone had a former girlfriend named **[REDACTED]** who had worked at MDC. He ~~met her online and moved to Tennessee for approximately a year and then returned to MDC with her.~~ They resided in Boulder when they were together. **[REDACTED]** was much younger than Whetstone. Sheriff Doolittle had no information on **[REDACTED]**'s current whereabouts. He noted that Whetstone had an ex-wife, **W2**.

Agent Matteson requested a copy of any telephone calls placed by Whetstone while he was incarcerated at the JCSO jail. Sheriff Doolittle advised that his computer system to accommodate that request was not currently working, but he would preserve any calls and get the issue resolved so as to provide them.

On June 21, 2010 Agent Danielson and Forensic Interviewer Dana Toole preceded Agent Matteson to MDC and conducted a second forensic interview with **V3**. This interview was conducted in a place which was reportedly less stressful for Ms. **V3** as she had been nervous and repeatedly inquired if she was in trouble in her prior interview at the administration building. Agent Danielson advised Agent Matteson that Ms. **V3** had disclosed sexual contact by employee **S2** during this interview. She was

not able to provide a time frame. Agent Danielson provided Agent Matteson with 4 photos of the various "AI's" that Ms. V3 knew, which had been used for identification in the interview. Copies of these photos were placed into the Evidence Section of the case file. The originals were placed into DCI evidence. The disclosure included that the incident had occurred in the "family room" of Ms. V3's housing unit.

A second interview was attempted with R1. Ms. R1 had been very distracted during the first attempt to interview her. No disclosure was made by Ms. R1 in this interview.

Agent Danielson recorded the interviews and copied them to CD's which were placed into evidence. (For further details regarding the interview, refer to Dana Toole's report on the interview or the CD's.)

On June 21, 2010 Client Services Director Bobbi Janacaro provided Agents Danielson and Matteson with a tour of the MDC campus. During the tour she explained operational issues of the facility. The following observations and notations are from the information obtained during this tour:

Staff is assigned to specific areas or units, but all staff occasionally move around to cover absences, or cover each other's positions.

V3's housing unit was undergoing remodeling and the family room was gutted to the subfloor. A contractor was actively working on it. Based upon Ms. V3's disclosure that the sexual contact with S2 occurred in the family room of her housing unit, any evidence which might have remained on flooring or walls would be gone. No processing of the family room was attempted. It is noted that there is a large window beside the door to the family room in each housing unit. Persons within that room would be visible from other common areas of the housing unit even if the door was closed. Ms. Janacaro advised that V3 has been a client at MDC for approximately 20 years and S2 has worked there in excess of 10 years. Unless a time frame could be established the statute of limitations would be at issue, even if physical evidence or other corroboration were found.

Ms. Janacaro advised that the keys for most of the campus are electronic. The key used to open the vocational building on the day of the immediate incident against V1 occurred, was Whetstone's key. The normal course of business is that once the building is opened for the day, it would remain unlocked all day. The internal door locks inside the vocational building are normal keyed locks. (Not electronic)

Agent Matteson requested a copy of the floor plan of each building on campus from the fire evacuation maps for each building, as well as a copy of the map of the campus. These were provided by Ms. Janacaro on June 22, 2010. (These maps are located in the Documents Section of the case file.)



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S2  
DOB  
SS#  
Boulder, MT 59632  
406-

On June 22, 2010 Agents Danielson and Matteson interviewed S2 in Butte. The interview was conducted in Agent Matteson's vehicle. S2 was read his Miranda Warning, acknowledged understanding and signed the waiver. He agreed to have the interview recorded. The recording of the interview was later placed onto a CD and the CD placed into evidence by Agent Danielson.

S2 indicated that he had worked for MDC for approximately 17 years. He knows V3 and noted she was a friend of his wife's before she passed away. He does not work in Ms. V3's unit but has subbed there, and has had occasional contact with her. He denied the allegation and denied ever being alone with Ms. V3 except for walking together in public between buildings.

He admitted he had talked to MDC Investigator Reeder that morning about the investigation status and his return to work status.  
(For complete details of the interview, refer to the transcript in the Documents Section of the case file.)

Bruce Giulio  
Maintenance Supervisor  
Montana Developmental Center  
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Boulder, MT 59632

~~On June 22, 2010 Agents Danielson and Matteson processed the scene of the sexual assault against V1.~~ Consent to do so had been given by MDC Administrator Kathleen Zeeck. The room was described as the party room or balloon room within the paper shredding room of the vocational area of Building 104 on the MDC campus. The shredding room and the party room each have a locking door which locks with one manual key, which worked on both doors. Those doors are normally closed and locked and the on duty Vocational Employee is only one in building with a key to those doors. On the date of this incident, Whetstone was the employee with the key.

The scene had been previously accessed by JCSO, DOC Investigator Tunnel and MDC Investigator Reeder. The scene was secured and key control had been initiated at the direction of Kathleen Zeeck. Maintenance Supervisor Bruce Giulio had maintained the key access list since the incident. He noted that prior to, and including the date of the reported incident that Whetstone had a key for that area. Since that time only 3 people

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had accessed the key for this area and the keys were signed out. Giulio noted that the electronic card reader keys had been checked on computer by JCSO, and Whetstone had been the one to open building 104 on the date of the incident involving [REDACTED] V1. Giulio reiterated that the computer was unable to print that screen info, but he had knowledge which corroborated the JCSO information on that matter.

Agent Matteson photographed the scene to include the vocational area, shredding room and party room. There were remnants of the potting soil and gardening materials in the outer vocational area. This was consistent with the information from [REDACTED] V1 about watering plants. Giulio explained that there had been starter plants in the area at that time. Giulio showed agents the area where the blanket was recovered after being discovered by DOC Investigator Tunnel. He noted that the blanket had not been folded and the other contents of the bags present appeared to be folded. No other blankets of the similar color were noted present. This area was photographed by Agent Matteson.

Inside the party room/ balloon room was a wooden "bench" which had boxes on it. There was a noticeable absence of dust on the shelves along the wall, in the approximate sizes of these boxes. Giulio advised that he had been in this room routinely over the years and the boxes now on the "bench" were previously located on the shelves. He believed the first time he had seen them in the current location was immediately after the incident involving [REDACTED] V1.

Agents examined the room carefully for any additional evidence. The entire room was darkened and examined with an alternate light source (ALS). Two areas had stains which were reactive with the alternate light source. Such a reaction is commonly seen when the ALS illuminates semen. One stain area was at the end of the "bench" on the flat surface on top and the other stain was on the floor near the end of the same bench. The "bench" is unfinished wood. (It is noted that [REDACTED] V1 described a wood object that Whetstone had her lay on. It is also noted that in the JCSO interview with [REDACTED] W1, he described that Whetstone had provided details to him regarding the incident, which included that Whetstone had ejaculated on the floor.) Photos of the stains were taken with and without alternate light source.

The following evidence was collected:

- Evidence Item 101- control swab with distilled water
- Evidence Item 102 - Swab away from stain on bench
- Evidence Item 103- swab of stain on bench
- Evidence Item 104- swab away from stain on floor
- Evidence Item 105 - Swab of stain on floor

The evidence was collected by Agent Matteson. The swabs were allowed to air dry, placed into appropriate evidence boxes and the boxes placed into paper bags which were sealed with evidence tape.

Measurements were taken of the party room and evidence located there. A sketch was completed by Agent Danielson showing the location of the evidentiary items located



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there. A computer generated sketch was later produced by Agent Hilyard based on the measurements and sketch of Agent Danielson. (Both sketches are located in the Evidence Section of the case file.)

(The photographs taken of the scene during processing are located in the Photograph Section of the case file. A CD containing the photos also accompanies the case file.)

W2  
[REDACTED]  
East Helena, MT 59635  
(406) [REDACTED]

On July 1, 2010 Agents Danielson and Matteson made contact with W2 (formerly Whetstone) W2 at her residence. W2 was willing to talk to Agents about her prior marriage to Allen Whetstone. She declined to have the interview recorded. W2 advised that there should be Department of Family Services records in Butte and court records in Boulder which dealt with Whetstone's abusiveness. She also indicated there would be records at Boulder P.D. and Butte Silver Bow Law Enforcement Agency. She related that she met Whetstone in 1988. He portrayed himself as a Christian. As the relationship progressed he was verbally abusive and increasingly abusive towards her and her children from her previous relationship. She recalled one incident where he threatened suicide with a gun in Butte and the police took him to St. James Hospital. He did a voluntary commitment and promised to be better.

W2 advised that Whetstone was psychologically abusive and verbally abusive regularly. He was only physically abusive with her twice. She advised that he was extremely manipulative and would control the family with manipulation. She recalled that he used to threaten to kill himself and place the blame for having done so on her in his suicide note.

[REDACTED]

They moved to Boulder in 1998 for a new start. Whetstone had worked at MDC since 1989. In 1998 W2 began working at MDC too. Around 1999-2000 W2 left Whetstone and obtained a restraining order. Whetstone was using clients to pass messages to her in violation of the restraining order. W2 reported this to MDC staff. (Glen Durbout) She believed Whetstone was suspended for this behavior at work and for threatening her at work. She believed this information would be contained in hers and Whetstone's personnel files at MDC.

Whetstone stalked her when she left him, following her and watching her activities. W2 advised that Whetstone got a deferred prosecution on his charges from his abusiveness towards her and her children.

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W2 recalled that around 2002 Whetstone met a young gal ( ) online and moved to TN to be with her. He worked in a residential care facility for the developmentally disabled while in TN. W2 advised that Whetstone brought to MT and she worked at MDC also. has since left and W2 did not know her current location. W2 believed was bi-polar. W2 was unaware of any friends here who might know the location of .

W2 provided the following information which she felt was possibly pertinent to this case:

A client at MDC named R3 got an STD while at MDC. She believed that an employee ( E1 ?) was suspended over that incident. (This occurred in an unknown time frame)

A client at MDC named R8 who was approximately years old was a beautiful girl. The staff was making sexual comments about her and W2 recalled that R8 had talked about Whetstone being a 'flirt'. This was between 2000 and 2003.

Whetstone told W2 about an incident where he had repeatedly struck a client named R4, while the client was in restraints and unable to protect himself. W2 reported that to , who was a counselor Whetstone was required to see. This apparently had happened a long time prior to Whetstone having told W2 and the time frame is unclear for her.

W2 advised that Whetstone's first wife was and she was 16 years old when he married her. W2 had been told that when she left Whetstone he followed her to California and was stalking her, until her new boyfriend beat him up.

W2 provided copies of some documents which included some involving the legal issues involving Whetstone's abusiveness. (These documents are located in the Documents Section of the case file.)

Following the interview with W2, Agent Matteson requested copies of Law Enforcement reports involving Allen Whetstone from Boulder Police Department, Jefferson County Sheriff's Office and Butte Silver Bow Law Enforcement Agency. Corroborative reports were recovered which were consistent with information provided by W2. (These reports are located in the Documents Section of the case file.)

Guardian

Helena, MT 59601  
(406)

On July 1, 2010 Agents Danielson and Matteson interviewed [Guardian] the mother of former MDC client [R3]. Mrs. [Guardian] declined to have the interview recorded. [Guardian] is [R3]'s guardian. She refused to give consent for Agents to attempt to interview [R3] about her time at MDC. (For details regarding the content of the interview, refer to Agent Danielson's report.)

On July 6, 2010 Agent Matteson had telephone contact with DOC Investigator Dale Tunnel. Tunnel advised that he had sent a report to JCSO regarding the finding of the blanket during his investigation. He advised that he had intentionally tried to avoid any investigation into the criminal case, and was just assigned to do a review of policy compliance. Agent Matteson later received a copy of this report from JCSO. JCA Matt Johnson directed that he felt the DOC investigative file should be reviewed as part of the criminal investigation. DOC was contacted by DCI administration and indicated that their investigation was requested by DPHHS and the content of the investigation belonged to DPHHS. After discussing this with JCA Matt Johnson, an investigative subpoena was directed to DOC for their file on this incident.

On July 13, 2010 Agents Matteson and Danielson met with JCA Matt Johnson and signed the affidavits for investigative subpoenas for MDC, the Boulder Clinic and Dr. [REDACTED]. (Copies of these affidavits, subpoenas and the responses received from them are located in the Documents Section of the case file.)

Johnson supplied a copy of the court order directing Whetstone to supply a DNA standard for the investigation.

Johnson advised that his paralegal would request consent from [V1]'s parents for release of her medical records at St. Peters Hospital regarding her treatment there following this incident.

Johnson also advised that Betty Rego, an employee of MDC had called the JCCA office the preceding week and asked questions regarding the investigation into the [S2] case. Rego represented herself to be a private investigator. Johnson expressed concern that if there was a parallel investigation, that the information known in that investigation be included in the criminal investigation.

On July 13, 2010 Agents Danielson and Matteson went to the JCSO and received the DNA standard/ buccal swab collected from Whetstone pursuant to the court order. A copy of the court order is located in the Documents Section of the case file. Undersheriff Marquis had collected the buccal swab and tagged it as evidence.

While at the Sheriff's Office, agents observed Whetstone and his attorney in the parking lot. Agents approached the attorney, Christina Neal of the Office of Public Defenders and provided her with their business cards. After introducing themselves, agents inquired if an interview with Whetstone would be possible. Ms. Neal indicated she would talk to her client later in the week and determine if she would allow an interview after talking to him. She indicated she would let agents know the decision.



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Donna Gilmer  
Staff, Montana Developmental Center  
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Betty Rego  
Staff, Montana Developmental Center  
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Boulder, MT 59632

On July 13, 2010 Agents Danielson and Matteson went to MDC and contacted Cathy Zeeck. Agents advised her that employee Betty Rego's name had come up as someone who might have knowledge regarding the [REDACTED] S2 allegation. Agents made it clear to Ms. Zeeck that Rego was a potential witness and not a suspect. Agents inquired if Ms. Zeeck could arrange for them to interview Rego. Ms. Zeeck provided a room within the administration building and had Rego relieved of her duties to respond to be interviewed. Agents introduced themselves to Ms. Rego and explained that she was not a suspect, and that they had received information that she was conducting an investigation into the [REDACTED] S2 allegation. Agents explained that if she had information that might aid in the criminal investigation, it needed to be shared. Ms. Rego advised that she had recently begun trying to do some private investigator (P.I.) work. She has done some small jobs for friends and decided to take it upon herself to look into why [REDACTED] S2 isn't back to work. She advised that she had called the JCA and represented herself as a P.I. She advised that the person she spoke with at the JCA office did not reveal any facts to her and she had not done any further investigation or inquiring any other places. Rego stated she had no knowledge of the case or case facts and was merely inquiring. Rego was cooperative and straightforward in the interview. Agents suggested to her, that she investigate becoming licensed if she intended to continue with P.I. work or representing herself as a P.I.

During the conclusion of the interview Ms. Zeeck interrupted the interview to advise agents and Rego of Rego's right to union representation during the interview process. Rego declined Zeeck's offer. Agent Matteson explained that Rego was a potential witness in a criminal case and was not a suspect, and that union reps were not going to be present in interviews pertaining to criminal justice information. Ms. Zeeck left the room and the interview concluded shortly thereafter. Employee Donna Gilmer then entered the room with Zeeck. Gilmer had a copy of the union contract in hand and disputed agents' ability to bar union representation from the interview process. Agents attempted to explain the difference between an employee being questioned as a suspect, versus an employee being interviewed as a witness. Gilmer was adamant that this would not happen again. She had already called the union and legal counsel, attorney Laura Vachowski. Agents had completed the interview they needed to accomplish that date and left without further arguing the point. Bureau Chief John Strandell was briefed and he contacted Bob Runkel regarding the issue. On July 14, 2010 Agents were advised that this issue was addressed and resolved with MDC and would not be an issue again.

On July 16, 2010 Agent Matteson transported evidence from this case to the Montana State Crime Lab in Missoula. (For details regarding the examinations requested, refer to Crime Lab Request documents in the Evidence Section of the case file.)

On July 19, 2010 Kellie Doherty of JCA office advised that [REDACTED] V1's parents had signed a release for her medical records from her examination at St. Peter's Hospital in Helena. She advised she would request the records and have them forwarded to DCI.

On July 28, 2010 Agents received the responses to the Investigative Subpoenas from the Boulder Clinic and Dr. [REDACTED]. There was no mention in the records received of Herpes or STD's. Agent Matteson discussed with Kellie Doherty the possibility of getting a court order requiring Whetstone to undergo testing for STD's and the testing medical providers. The purpose of this was for two reasons. First was to be able to advise medical caregivers providing care to the potential victims in this case so that they could be tested/treated for the diseases, and secondly to establish proof if Whetstone was infected and exposed his victim(s) to any STDs in violation of MCA 50-18-112. Ms. Doherty indicated the JCCA office would pursue such an order.

Beginning approximately July 28, 2010 Agent Matteson became aware that DPHHS and MDC were attempting to quash the subpoena directed to them for records pertinent to this case. DPHHS legal staff with JCCA Matt Johnson and a revised subpoena was agreed upon. DCI Agents were not included in this negotiation process and the subsequent agreements made between DPHHS and JCA were made by those entities. The agreed upon terms of materials to be supplied appeared to rely heavily upon DPHHS legal staff screening the materials for what they believed to be sexual misconduct information. Such screening would likely not include documented instances of 'grooming' behavior by suspect employees as it is not necessarily overtly sexual although it could fit into a pattern identifiable by trained investigators with knowledge in that area. Additionally the agreed upon time frame (2008 forward) did not encompass all complaints involving the suspect and alleged victims as there was one known previous complaint involving [REDACTED] R2 alleging inappropriate contact with Whetstone in 2006. DPHHS later honored the Investigative Subpoena to DOC for Investigator Tunnel's files and those materials were provided by DPHHS pursuant to their subpoena.

On August 2, 2010 Kellie Doherty of JCA office advised Agent Matteson that [REDACTED] V1's medical records from St. Peter's Hospital had been provided via consent from her guardians. Ms. Doherty forwarded these records. (The records are included within the Documents Section of the case file.) The doctor's report negated the likelihood of erect penile penetration. This information continues to be consistent with the story the suspect told to co worker [REDACTED] W1, who provided a recorded statement to law enforcement.

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On August 17, 2010 Supervising Agent Arlyn Greydanus, Agent Danielson and Agent Matteson met with Laura Vachowski. Ms. Vachowski indicated that the materials to be provided pursuant to the subpoena were being compiled. She was screening materials for appropriateness pursuant to the subpoena. Agents offered that if she would arrange for agents to review the materials, not all of the materials would need to be photocopied and agents could screen out the immaterial documents, copying only the necessary documents. Ms. Vachowski advised she would review and screen the documents. Ms. Vachowski advised that part of the information would be ready by August 20, 2010 and the remainder would follow as timely as possible. Agents pointed out that the suspect had been charged and speedy trial issues could come up if the investigation continued to be stalled by delays in providing the documents.

On August 18, 2010 Agent Matteson received via U.S. Mail from the JCA's Office, two MDC 'Critical Incident Investigation Final Report'. The first report involved the investigation into [REDACTED] V2's statement to [REDACTED] V1 after [REDACTED] V1's incident with Whetstone, that Whetstone used to do that with her ([REDACTED] V2) too. This report indicated the incident occurred on May 25, 2010. The investigation was completed by Investigator Reeder on August 6, 2010 and reviewed by MDC Administrator Kathleen Zeeck on August 10, 2010. The report indicated an oral statement was obtained from Leigh Ann Leary and later refers to the oral statement of Ms. Holmes. It was unclear if this is the same person. The statement was not attached to the report, nor was her statement summarized in the report. A request was made on August 27, 2010 to current DPHHS point of contact Laura Vachowski to clarify if this is the same person and have MDC provide this statement. Ms. Vachowski clarified that Holmes and Leary are the same person and that no additional recordings or memorializations of that interview existed. Under administrative remarks it was noted that MDC was not able to interview Ms. [REDACTED] V2 due to a directive of the criminal investigators. It should be clarified that on the date the forensic interviews with potential victim clients, that MDC Investigator Reeder was specifically invited to view the interviews with the reasons being articulated to him that he could obtain the information he needed for his investigation from that interview, and it would avoid unnecessarily re-interviewing potential victims. Reeder did not sit in and observe any of the interviews conducted despite this invitation. The second report involved the investigation into an allegation apparently called in to the Helena Independent Record that Ms. [REDACTED] V3 had been sexually assaulted at MDC. The report did not indicate when this call took place and only noted that the information was given to (unnamed) DPHHS personnel and passed to (unnamed) MDC administration. The report noted that 5 interviews were conducted, but no summary of those interviews was contained in the report. The report also indicated business records were collected but did not further specify or describe their content. The records were not attached to the report. A request was made on August 27, 2010 to current DPHHS point of contact Laura Vachowski to determine if additional statements or records exist and provide them under the existing subpoena. Ms. Vachowski responded that additional statements and interview recordings existed and would be forwarded to DCI pursuant to the existing subpoena. The business records were the General Events reports which was also provided. The report also noted that DCI had taken control of the interviews of possible victims. (In a July 20, 2010 email MDC Administrator Kathy Zeeck had inquired about



MDC's ability to conduct interviews and was advised by Agent Matteson to proceed as the forensic interviews with the potential victims had been accomplished.) The report indicates that Ms. V3 had engaged in consensual sexual contact with another client in 2006, and only briefly references the current allegation by her against employee S2 in the administrative comments. It is unclear if this investigation was merely a records check for prior reports based on the anonymous allegation to the newspaper or if any investigation took place into Ms. V3's current allegation. (Both of these reports are located in the Documents Section of the case file.)

On August 24, 2010 Agents Danielson and Matteson reviewed documents received from MDC pursuant to the Investigative Subpoena. A review of Whetstone's personnel file and training records did not find that he was ever required to attend 'Ethical Touch and Boundaries Training' as directed. Interestingly it was recommended by Investigator Reeder and directed by MDC Administrator Zeeck, yet merited no follow up review or investigation. It is noted that the materials provided pursuant to the investigative subpoena were apparently being screened by DPHHS legal staff with no known experience or training in sexual predator behavior, and the reports to be disclosed were only reports of incidents of a sexual nature. It is unknown if other grooming behavior by Whetstone has been observed or documented, but not identified as sexual behavior. (Additional observations were made by Agent Danielson during the review of these materials and are documented in his report.)

The DCI investigation to date, substantiates the JCSO investigation regarding the sexual assault by Whetstone against V1. Whetstone confessed to co-worker W1 that he had sexual contact, (including digital penetration and ejaculation) with V1. Whetstone later confessed over the telephone to Investigator Reeder that he had sex with the victim but did not penetrate her. The victim's story has been essentially unchanged from the beginning through the various interviews, with the exception of Reeder's, which was the only interview conducted 'one on one' and was not recorded. The investigation further establishes that V2 gave a clear and detailed disclosure regarding Whetstone having had sexual intercourse with her on more than one occasion in the same area as the assault on V1. While V2 was unable to establish dates of these occurrences, she has been at MDC less than 5 years, which establishes that these assaults occurred within the statute of limitations time frame. The investigation further establishes that Whetstone had inappropriate contact with R2 dating back as far as 2006. The contact and reported actions include 'grooming behavior' as well as sexual allegations. It is noted that R2 appeared to be more verbally advanced than the other victims, and Whetstone may have considered her too high risk to pursue further after the 2008 incident. It is noted that while the 2008 allegation was partially unsubstantiated (the portion involving Whetstone touching R2's buttocks) the administrative review comments noted that the substantiated portions were "unacceptable" and that Whetstone had "been too familiar in his actions towards her." The fact that the investigator suggested and the administrator directed that Whetstone attend "Ethics of Touch and Boundaries Training" would further substantiate that there was a belief that Whetstone was behaving in an unacceptable fashion. Based upon Whetstone's training records supplied by MDC pursuant to the Investigative

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Subpoena, it appears that MDC did not follow through with their own directed remedial training.

The investigation was unable to establish if Whetstone had sexual contact with other clients at MDC. While some other circumstantial evidence exists that could implicate Whetstone, no disclosures were made by the clients involved. It should be noted and understood that there are other less communicative clients at MDC who Whetstone has had contact with during his tenure there. These clients would not have been able to disclose any abuse.

It is noted that a part of Chief Investigator Reeder's job duties are "Client Protection". If V1's statement to JCA Paralegal Kellie Doherty and JCSO Chief Deputy Gleich is believed, it is apparent that Reeder discouraged her from furthering her complaint regarding the incident with Whetstone. In fact if V1's statement is believed, it appears Reeder was instrumental in getting her to initially recant her story. It is further noted in Leigh Ann Holmes interview transcript that Reeder appeared to be discouraging her from taking V1 to the hospital or any other action which might involve outside agencies in the investigation. Reeder would be considered a mandated reporter, as would all staff members of MDC. For him to discourage another mandated reporter from doing her duty, further adds to the believability that he influenced V1 into recanting. Reeder did not appear to give credence to the victim in this case until the suspect called him on the telephone and confessed. This was after other mandated reporters had initiated outside law enforcement involvement. Only after hearing the suspect confess, did Reeder initiate contact with outside law enforcement. Reeder has been minimally cooperative in providing requested materials to DCI throughout this investigation.

The allegation by V3 involving S2 included a disclosure by her in her second forensic interview. The first forensic interview involved her being uncomfortable with the setting and process. No physical evidence was recovered in support of that allegation and no other witnesses were identified. S2 denied any sexual contact with V3. V3 has been a client at MDC for a long period of time and S2 has been an employee for approximately 17 years. The disclosure by V3 did not have sufficient detail to determine that the incident happened within the statute of limitations.

This case will be submitted the JCA Office for consideration of additional charges against Whetstone to include; Sexual Intercourse without Consent. (One additional count for digital penetration against V1 and two counts against V2), and Infected Person Exposing another to STD (One count each for both previously named victims). Consideration should also be given regarding Keith Reeder's actions as a mandated reporter.

Additional materials and documents, to include crime lab reports and medical reports involving Whetstone's testing for STD's will be forwarded to the JCA as they are received by DCI.

End of Report

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Agent Phil Matteson



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MONTANA DEPARTMENT OF JUSTICE

SUPPLEMENTAL REPORT #1

CASE NO: MF 10-06-01  
DATE: August 23, 2010  
AGENT: Cody Danielson  
SUBJECT: Medicaid Fraud, Sexual Intercourse without Consent, Sexual Assault,  
Infected Person Expose another to Sexually Transmitted Disease, Failure  
of Mandated Reporter to Report

SUSPECT:

Whetstone, Allen Ray  
DOB: [REDACTED] 1962  
SSN: [REDACTED]  
[REDACTED]  
Boulder, MT 59632

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DISSEMINATE ONLY IN ACCORDANCE  
WITH 44-5-301 THROUGH 305 MCA

DETAILS:

On June 7, 2010, Agents Danielson and Matteson were assigned to investigate allegations that a staff member of the Montana Developmental Center (MDC) in Boulder, MT, committed sexual assault and sexual intercourse without consent with one or more residents/clients of MDC. The allegation purported that on or about May 24, 2010, Allen Ray Whetstone engaged in unlawful sexual contact with a developmentally disabled client at MDC. MDC houses and cares for developmentally disabled persons. Whetstone was an employee at MDC who had supervisory contact with the developmentally disabled clients who resided there. The victim of the alleged acts, V1, was a 29 year old developmentally disabled client who had resided at MDC for several years. V1 had the approximate mental capacity/equivalency of a seven to nine year old child. V1 was thus incapable of giving consent pursuant to M.C.A. 45-5-501.

On June 4, 2010, Sheriff Craig Doolittle of the Jefferson County Sheriff's Office (JCSO) requested DCI's assistance in the investigation of the allegations against Whetstone. Agents Danielson and Matteson were assigned to that investigation and on June 7, 2010, they obtained the investigative reports completed by Chief Deputy Bob Gleich, an employee of the Jefferson County Sheriff's Office. The Agents learned the following from the JCSO investigation:

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On May 24, 2010, Whetstone had supervisory authority over [V1] while Whetstone supervised work details. Whetstone and [V1] were together watering plants. When [V1] returned to her housing area, another staff member, Carolyn Begnaud, observed [V1] with candy in her hand. Begnaud asked [V1] where she obtained the candy and [V1] told Begnaud that Whetstone had given it to her in return for sex. Begnaud notified her supervisor immediately. That report was given to Keith Reeder, a client protection specialist at MDC. Reeder's job duties were to investigate allegations of wrongdoing involving clients and employees of MDC. Reeder spoke briefly to [V1] and advised Leigh Ann Holmes, qualified mental retardation professional (QMRP), that [V1] had recanted the sexual allegation. However, on May 25, 2010, [V1] told Holmes that the sexual contact had indeed occurred and described the incident in detail, including a description of the blanket Whetstone put down on a surface for [V1] to lie on. [V1] described the color of the blanket as "orangish-peach." [V1] also showed Holmes the location of the incident, which was a locked/secured room used infrequently by MDC staff.

JCSO Deputy Gleich met with [V1] at the St. Peter's Hospital Emergency Room on or about May 25, 2010, where [V1] had been taken for a medical examination related to the allegation of sexual assault. Gleich was accompanied by Kelly Doherty, a paralegal and interviewer who worked for the Jefferson County Attorney's Office. According to Gleich's investigative report, [V1] told Gleich and Doherty that she and two other MDC clients were on a work detail on May 24, 2010. The work detail ended at approximately 10:00 a.m. and Whetstone, [V1]'s work supervisor, sent the other clients back to their dormitory. He and [V1] then continued to water plants in the vocational building. [V1] said that they had sex and Whetstone gave her "Skittles" candy. [V1] said the sex happened in the room "where they blow up balloons." [V1] described the sexual contact in detail to Gleich and Doherty and told them that Whetstone told her not to tell anyone about the incident or he would get into trouble. Gleich and Doherty asked [V1] about recanting her story when she was interviewed by Reeder and she said Reeder told her to change her story because Whetstone could get into a lot of trouble and maybe even lose his job. Additionally, [V1] said Reeder told her that if she was lying, she would have to go to the Assessment Stabilization Unit (ASU). The ASU was of concern to [V1] because it involved alternative and secure housing on the MDC campus, away from her familiar housing unit. [V1] was also concerned that the move would take her off the request list for group home housing.

[V1]'s rape examination was conducted by ER physician, [REDACTED] and Registered Nurse [REDACTED]. The rape kit and [V1]'s panties were placed into evidence at the JCSO by Deputy Gleich. It should be noted that [V1]'s panties had been collected and placed into a bag by Reeder at the time of the initial allegation and then were given to Deputy Gleich and the bag was placed into evidence at the JCSO.

On May 26, 2010, Whetstone allegedly telephoned Reeder and confessed to having sex with [V1], but denied penetration. Reeder said he told Whetstone to come to his



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MDC office immediately. Deputy Gleich subsequently contacted Whetstone at MDC and requested that he come to Gleich's JCSO office to speak about the incident and allegation. Whetstone invoked his right to an attorney after Gleich read the Adult Rights/Miranda Warning to Whetstone and the interview was terminated.

Deputy Gleich's investigation included photographing the room the assault occurred in. He interviewed MDC staff and determined Whetstone had been the person who unlocked the vocational building on the morning of the incident; that Whetstone was in charge of the work assessment and crew and that the other clients returned to their housing units leaving [V1] alone with Whetstone. Whetstone's supervisor, Virginia Kraus, told Gleich that Whetstone told her the other clients chose to return to their housing units and that [V1] wanted to stay and water plants, so he took her to the vocational building to water the plants. Leigh Ann Holmes was interviewed by Gleich and said that [V1] told Holmes about the incident on May 25, 2010. Holmes said she understood [V1] originally recanted her story for fear of losing her eligibility to transfer to a group home.

On May 28, 2010, Boulder Police Officer Anderson conducted a recorded interview with MDC employee, [W1]. [W1] said he was good friends with Whetstone. [W1] heard some rumors about the incident and went to visit Whetstone at his home after [W1] got off work on May 26, 2010. Whetstone admitted to [W1] during that visit that he had touched [V1] inappropriately. [W1] visited Whetstone at his home again on May 27, 2010. During that visit, Whetstone admitted in detail his sexual contact with [V1] and said there had been digital penetration of [V1]'s vagina and that Whetstone had ejaculated during the incident.

As a result of Deputy Gleich's investigation, a felony arrest warrant was issued for Whetstone. Before the warrant could be served, Whetstone was reported to have packed up his truck and left his home in Boulder. However, the following Friday night, June 4, 2010, Whetstone turned himself in to the JCSO and was incarcerated pending his initial appearance in court for the charge of the sexual assault of a vulnerable adult, M.C.A. 45-5-502.

On June 16, 2010, Agents Danielson and Matteson drove to MDC in Boulder to conduct interviews with alleged victims of other assaults by Whetstone and possibly other MDC employees. They were accompanied by Dana Toole and Michelle Miller, licensed clinical social workers with extensive training in the forensic interviewing of children and the developmentally disabled. The interviews were recorded with both video and audio recorders. Recording equipment was set up so the forensic interviewers could be with the alleged victims in one room while the recorded interviews were monitored in another room by Agents Danielson and Matteson. It should be noted that Reeder was invited to attend the interviews in the monitoring room with the agents, but he did not show up for any of the interviews. Agents Danielson and Matteson also requested any documents regarding the incident with [V1] and other incidents with other potential victims that MDC was aware of. However, the only information provided by Reeder to the agents was a 3" x 3" "sticky note" with a list of six potential victims written on the paper and

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documents involving [V1], [R2], and [R1] (As of June 25, 2010, Agent Matteson had made 7 requests for all documents involving the alleged sexual victimization of those six individuals. Reeder never provided any written documents beyond the three victims listed above.) A summary of the information revealed by the MDC clients/interviewees is as follows:

[V2]  
310 West 4<sup>th</sup> Ave.  
Boulder, MT 59632

[V2] was a developmentally disabled client who lived at MDC and she was interviewed by Toole. [V2] gave a clear disclosure of vaginal/penile penetration between herself and Whetstone. It should be noted that [V2] knew three males with the name of "Al" at MDC; two employees and [V2]. [V2] was clear that Whetstone had sexual intercourse with her. [V2] also clearly disclosed that the sexual contact occurred more than one time. (Refer to the CD labeled "[V2] Interview" in the Statements section of the case file.)

[V1]  
310 West 4<sup>th</sup> Ave.  
Boulder, MT 59632

[V1] was a developmentally disabled client who lived at MDC. [V1] was interviewed by Miller. [V1] disclosed that "Skittles" candy had been in Whetstone's pocket and that he had put the candy into her pocket. Miller and Toole remarked that [V1] appeared to be angry at "Al." [V1] was able to clearly disclose that Whetstone had sex with her. [V1] told Miller that Whetstone told her not to tell anyone about the incident or he would get into trouble. It should be noted that [V1] also knew the three males with the name of "Al" at MDC; two employees and [V1]. [V1] was clear that she meant Whetstone had sexual intercourse with her. (Refer to the CD labeled as "[V1] Interview" in the Statements section of the case file.)

[R1]  
310 West 4<sup>th</sup> Ave.  
Boulder, MT 59632

[R1] was a developmentally disabled client who lived at MDC. [R1] was interviewed by Toole. [R1] did not disclose sexual contact with anyone at MDC. However, she said she wanted to go to the Warm Springs facility in order to "get away from a man here." [R1] did not disclose a name of that man or whether he was a staff member or a client at MDC. It should be noted that Reeder provided a document to Agents Danielson and Matteson dated June 23, 2008, in which [R1] had been acting out sexually inappropriate behaviors. [R1] had written on a wall at an unidentified location: "[R1]'s Vagina" and "Al's Penis." (Refer to the CD labeled as "[R1] Interview" in the Statements section of the case file.)

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V3  
310 West 4<sup>th</sup> Ave.  
Boulder, MT 59632

V3 was a developmentally disabled client who lived at MDC. V3 was interviewed by Miller. V3 was heard by staff members on a recreational outing bus trip on [redacted], that V3 had been forced to lick S2 penis and that she did not like it. (S2 was another staff member at MDC.) V3 was unwilling to speak of the incident to Miller and it was unknown if a future interview with V3 would result in a disclosure. She appeared to be distracted and very worried about being in trouble. V3 told Miller that she did not want to talk about being touched. (Refer to the CD labeled as "V3 Interview" in the Statements section of the case file.)

R2  
310 West 4<sup>th</sup> Ave.  
Boulder, MT 59632

R2 was a developmentally disabled client who lived at MDC. R2 was interviewed by Toole. R2 admitted to asking MDC staff for money for use in the general store on the MDC campus. R2 said Whetstone had given her \$.50 on more than one occasion in the past. On one occasion, he said he would not continue to give her more money unless he could touch her "boobs or butt." R2 told Toole that she told Whetstone, "That's not a good deal." R2 said Whetstone gave her the money anyway and that R2 reported to MDC staff what Whetstone had said to her. R2 stated a female investigator spoke with her about the incident. (It was believed, but not confirmed, that the female investigator may have been an employee of the Boulder Police Department.) R2 told Toole that the result of that investigation was that R2 was not allowed to work in the clients' MDC general store for awhile or have contact with Whetstone. When some period of time had transpired and she was allowed to return to working in the store, R2 said Whetstone would come in and kick her in the butt with his booted foot. R2 said she asked him why he kicked her and reported that Whetstone's response was, "You remind me of the girls I date outside," (presumably outside of the MDC campus). R2 told Toole that she told Whetstone she was not like the girls outside of MDC and that she would never be leaving or living outside of MDC. R2 said she was scared and intimidated when Whetstone kicked her. (Reeder provided Agents with two reports involving those allegations and the MDC investigation of them. One of the results of R2 reporting the incident with Whetstone was that Whetstone was purportedly required to attend a training entitled "Ethical Touching and Boundaries," before returning to his regularly scheduled shift.)

Guardian  
Helena, MT 59601  
(406) [redacted] (h)

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On June 15, 2010, Agent Danielson spoke via telephone with the grandmother and guardian of a former MDC client, R3. The conversation was not recorded. The woman's name was Guardian and she told Agent Danielson that she was able to remove the granddaughter from MDC and place her in another care facility after a number of sexual assault incidents at MDC. Guardian told Agent Danielson that she would not allow the interview of R3 due to the trauma R3 had experienced trying to report and rectify the alleged incidents at MDC. Guardian said that as a result of sexual abuse at MDC, R3 had contracted human papillomavirus (HPV) and needed surgery to remove her uterus. It was unclear from Guardian information if the HPV was caused by sexual contact with Whetstone or not. Guardian said there should be numerous reports in R3's case file at MDC of sexual assault allegations. Guardian said that one incident she reported to the MDC administration involved scratches on the inside of R3's thighs that ran from her crotch to her knee on both sides. Guardian told Agent Danielson that she tried to question her granddaughter about the scratches, but ended up asking Reeder what had occurred. Guardian told Agent Danielson that Reeder said the scratches occurred when a staff member had to restrain R3 and that the keys of the staff member restraining her were the cause of the scratches. Guardian told Agent Danielson that she knew of other MDC clients who spoke of sexual abuse and would remark that bath time was the most opportune time for the sexual abuse to occur. Guardian stated that a former employee named E1 (who lived in Basin and worked there as a bartender) used to punch R3 in the ribs and tell her not to tell anyone about the sexual abuse he was inflicting on her. E1's threats included telling R3 she would never again go on outings if she disclosed the abuse to anyone. Guardian said she had reported the incidents to Reeder, but there were no successful outcomes to those investigations. Guardian believed the abuse was occurring to male clients at MDC as well as the females.

On June 15, 2010, JCSO Sheriff Craig Doolittle told Agent Matteson that the blanket believed to have been used in the assault against V1 had been found at MDC. The blanket was in close proximity to the room where the assault took place. The blanket had been placed inside a bag containing folded laundry, but the blanket was not folded similarly to the other laundry items found in the bag. The blanket was placed into evidence at JCSO.

On June 18, 2010, Agents Danielson and Matteson drove to Boulder and met with JCSO Sheriff Doolittle. Sheriff Doolittle stated Whetstone had been released from jail after posting bond on June 16<sup>th</sup>. Sheriff Doolittle stated Whetstone's bond had been reduced to \$5,000 from \$25,000. Sheriff Doolittle provided a copy of Whetstone's booking sheet and copies of the JCSO reports regarding the recovery of the blanket at MDC as well as other evidence in custody of JCSO. The evidence seals were observed to be intact upon receipt by Agent Danielson. On June 18, 2010, Agent Danielson took possession of the evidence and transported it to Helena where it was booked into evidence that afternoon.

On June 21, 2010, Agents Danielson and Matteson returned to the MDC with Michelle Miller to re-interview V3. The interview was recorded. It was believed on June 15, 2010, when V3 was initially interviewed by Miller, that she had more information to



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--disclose regarding possible sexual contact with a staff member at MDC. During the interview on June 21, 2010, V3 was shown photographs of the two residents and the two staff members who had the first name of "Al" in order to see if V3 could differentiate between residents and staff with the same first name. V3 identified R4 as a resident of the facility. V3 said that R4 touched her on her arm and nowhere else. V3 identified a picture of R5 as a (former) resident of the facility. V3 said that R5 touched her with his penis behind a warehouse at the facility. V3 then identified a photograph of Al Whetstone and said he was a staff member at MDC. V3 said that Al Whetstone did not touch her. V3 then identified a photograph of S2 as a staff member. V3 said S2 was her "buddy" and he had touched her in the past. Using anatomically correct dolls, V3 indicated that S2's mouth had touched her vagina. V3 also stated S2's penis touched her vagina. V3 also said S2's mouth touched her mouth. Miller asked V3 where the touching had taken place and V3 said it happened in the "family room" at the facility. V3 told Miller that nobody saw the incident between her and S2, and that it only happened once. V3 stated S2 said, "Shhhh" and that he "didn't want everybody to know" because they would, "call the cops" and "put her in 104" (referring to the secure area on the MDC campus). (Refer to the CD labeled "V3 II" in the Statements section of the case file.)

S2

Boulder, MT 59632  
(406) (c)

On June 22, 2010, Agents Danielson and Matteson interviewed S2 in Butte, MT. S2 was read the Adult Rights/Miranda Warning, and consented to the interview. The interview was recorded and took place in Agent Matteson's vehicle. The interview was started at approximately 1305 hours. S2 stated he had worked for MDC for 17 years as a "direct care staff." S2 stated V3 had been at MDC for approximately 20 years. S2 stated he was told by administrative staff that he had been placed on administrative leave since V3 had made a "sexual statement" about S2's truck. S2 denied ever having sexual contact with V3. When asked if he had ever been placed on administrative leave for similar allegations, S2 stated he had been put on administrative leave once for "laughing." When asked for clarification, S2 stated a client thought that S2 was making fun of the client when he really wasn't. Agent Danielson asked S2 what he thought should happen to someone who engages in sexual behaviors with clients at MDC. S2 stated, "Well, that's up to the laws." Agent Danielson then asked what his personal opinion was regarding punishment for someone engaging in sexual behaviors with clients, S2 stated, "Uh, gee, I really don't know. Suspension? Um, getting fired?" S2 denied the allegation and denied ever being alone with V3. The interview was stopped at approximately 1332 hours. (Refer to the CD labeled "S2" in the Statements section of the case file.)

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Bruce Giulio  
Maintenance Supervisor  
Montana Developmental Center  
310 4<sup>th</sup> St  
Boulder, MT 59632

On June 22, 2010, Agents Danielson and Matteson processed the scene where the alleged assault of [V1] took place. Consent to process the scene was given by Kathleen Zeeck, administrator of MDC, and entry was gained via electronic and metal keys used by Bruce Giulio, maintenance supervisor at MDC. The room was commonly referred to as the "party room" or "balloon room" in building 104 on the MDC campus. The "balloon room" was adjacent to another room referred to as the "shredding room" in the same building. Giulio stated the doors leading into the building were electronically locked and the doors leading into the "shredding room" and "balloon room" were manually locked with a metal key. All locks were witnessed by Agents Danielson and Matteson to be in working order. Giulio stated the doors leading into the building as well as the interior doors were normally locked and closed. Giulio stated the only staff with access to the keys to the building keys on any given day was the "on duty vocational employee." Giulio stated Al Whetstone was the on duty vocational employee the day of the sexual assault and was in possession of the keys at the time of the assault. Giulio stated the key log for the building had been checked by JCSO and the building was opened by Whetstone on the day of the alleged sexual assault.

Agents Danielson and Matteson noted that the scene had been accessed by MDC investigator Reeder, the JCSO, and the Department of Corrections (DOC) investigator Dale Tunnell. The room had been secured and keys to the room had been controlled by administration at MDC, a policy that was initiated by Zeeck. Giulio stated the key log on the MDC computers could not be printed due to the software/printer incompatibility.

Photographs of the building and crime scene were taken by Agent Matteson. (Refer to the Photograph section of the case file.)

Agents Danielson and Matteson entered the "party room" and immediately noticed the absence of dust on shelves above a wooden bench near the middle of the room. The bench was holding boxes that appeared to have been moved from the shelves to the bench in the recent past. (It should be noted that observation was made by JCSO Gleich upon his entering the room on May 26, 2010.) Agents Danielson and Matteson examined the room for evidence. The lights were extinguished in the room and an alternate light source was used in examination of the room. Agents Danielson and Matteson found two areas that, when illuminated, reacted to the alternate light source in a way commonly seen with semen stains. The stain areas were plotted and recorded with measurements. One stain was on the end of the bench, near the middle. The other stain was on the floor near the end of the bench. It should be noted the bench was consistent with the description of the bench given by [V1]. It should also be noted that when the JCSO talked with [W1] he stated Whetstone had told him he had ejaculated and "didn't clean up the mess or anything" after sexually assaulting [V1]. Photographs of the stains

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were taken by Matteson with and without the alternate light source. Evidence was then collected by Agent Matteson. A sketch was made of the room by Agent Danielson and measurements were taken. The sketch was later given to DCI Agent Mark Hilyard who generated a computerized sketch of the scene based on Agent Danielson's measurements and hand-drawn sketch.

W2  
[REDACTED]  
East Helena, MT 59635  
(406) [REDACTED]

On July 1, 2010, Agents Danielson and Matteson interviewed W2 at her residence in East Helena. W2 asked that the conversation with her not be recorded. The interview started at approximately 0945 hours.

W2 said she was the former wife of Whetstone. W2 stated she first met Whetstone in 1988. W2 stated Whetstone portrayed himself as a "good Christian man" which attracted her to him. W2 stated Whetstone began verbally abusing her shortly after their relationship began. W2 stated Whetstone threatened to commit suicide several times during their marriage, and stated there would be a Department of Family Services (DFS) file in Butte which would chronicle his abuse and manipulation in their marriage. W2 stated on one occasion, Whetstone threatened to kill himself with a shotgun in Butte. W2 called the police and Whetstone was taken to St. James Hospital for suicidal ideation. W2 stated Whetstone was very manipulative with her as well as their children. W2 stated Whetstone would physically abuse their children, then bargain with them by purchasing playstation games, toys, etc., if they kept quiet about the abuse.

W2 said Whetstone started working at MDC in 1989. W2 started working at MDC in 1998. W2 stated when they both worked at MDC, there were times that she had "restraining orders" against Whetstone. W2 stated Whetstone would manipulate the clients into communicating with her despite the restraining order. W2 stated Whetstone was constantly manipulating the clients into doing things for him while working at MDC. W2 stated she reported Whetstone's violation of the restraining order to a staff member named Glen Durbout. W2 stated Whetstone was suspended for the violation and that those records should be contained in their personnel files.

W2 stated Whetstone received a 6 month deferred sentence for partner family member assault (PFMA) in Boulder during their marriage. W2 stated she left Whetstone in 2000 and their divorce was finalized in 2001. W2 stated Whetstone attended counseling with [REDACTED], a counselor from Helena, for anger management and abuse issues. W2 stated Whetstone left MDC in 2002 after meeting a young girl, [REDACTED], online. Whetstone moved to Tennessee to live with the girl and was employed in Tennessee working with the developmentally disabled. W2 was unsure of Whetstone's place of employment in Tennessee. W2 stated [REDACTED] and Whetstone returned to MDC and both worked at MDC together. W2 stated [REDACTED]

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had recently broken off the relationship with Whetstone and left the area. W2 did not know where [REDACTED] could be located.

When asked how she liked her employment with MDC, W2 stated MDC "covers up problems a lot." W2 went on to state there was "a pattern of cover up at MDC." When asked for details, W2 stated that Whetstone told her that he would "smack R4" while R4 was in restraints because "he wouldn't behave." W2 believed Whetstone told his counselor, [REDACTED], about physically abusing R4. W2 also stated that staff at MDC would "cover for each other" regarding similar incidents of abuse if the staff "didn't like the client" they were abusing.

When asked if she knew whether or not Whetstone had any sexually transmitted diseases (STD's), [REDACTED]

W2 stated she knew there was a client at MDC named [REDACTED] who "came down with an STD" while in MDC. W2 stated a "male staff member" was suspended for giving her the STD. W2 stated at one time, there was a "beautiful girl named R8" who lived at MDC. W2 stated she witnessed many of the male staff "flirting with R8." W2 stated Whetstone would flirt with R8 on many occasions. W2 stated she wondered if Whetstone may have had sexual contact with R8 between 2000 and 2003.

W2 stated Whetstone had previously been married. W2 stated Whetstone married a female named [REDACTED] from Butte, MT. W2 stated [REDACTED] was "either 15 or 16" at the time of their marriage and that Whetstone had to "ask for permission from her parents" to marry [REDACTED]. W2 stated [REDACTED] soon divorced him and moved to California.

W2 stated Whetstone would frequently use the computers in the library at MDC to chat with and meet people online during work hours.

W2 stated Whetstone had stalked, manipulated and threatened her with suicide numerous times during their relationship. W2 did not want Whetstone to know she had spoken with Agents Danielson and Matteson because she feared for her safety if he found out.

The interview with W2 was completed at approximately 1045 hours.

Guardian  
[REDACTED]

Helena, MT 59601  
(406) [REDACTED] (h)

On July 1, 2010, Agents Danielson and Matteson interviewed Guardian at her residence in Helena, MT. Guardian requested the interview not be recorded. The interview started at approximately 1130 hours.



Guardian stated her daughter was R3 who, at the time of this report, was years old. Guardian stated R3 had been out of MDC for approximately years. Guardian stated R3 began living in MDC when R3 was years old, and had been in and out of MDC for over years. Guardian said she visited R3 every Sunday during her residency at MDC. Guardian stated R3 was the victim of physical, sexual, emotional and verbal abuse while living in MDC. Guardian stated most of the abuse R3 was subjected to happened in the previous 5-6 years. Guardian stated a staff member named "E1" would "hit R3 in the ribs" and "threaten to hurt her" if she told anyone about the sexual abuse she had endured by him. Guardian stated R3 told her once that she could not sleep at night because "he (E1) keeps getting in my bed and laying on me." Guardian stated she told "Jeff in security" and "Keith Reeder" about the abuse. Guardian stated that Reeder told her he would take care of the claim. Guardian stated E1 was suspended for two days with pay for the sexual abuse. Guardian stated R3 had contracted human papillomavirus (HPV) from E1 and had to have her uterus and one ovary removed because of the disease. Guardian stated E1 was also "caught-red-handed" having sex with a client named "R7" but, to her knowledge, nothing was done about it. Guardian stated at one time, she had retained Timer Moses, an attorney from Billings, to sue MDC. Guardian stated Moses told her she may have a "multi-million dollar lawsuit" against MDC. Guardian stated the suit was dropped by Moses and she assumed he had been "paid off" by MDC not to pursue the case. Guardian adamantly refused to let Agents Danielson and Matteson speak with R3. Guardian stated it had taken "a long time" for R3 to cope with the abuse she had been subjected to at MDC and she didn't want anyone to "dredge up" any of those emotions with R3. The interview with Guardian was completed at approximately 1215 hours.

On July 13, 2010, Agents Danielson and Matteson met with Jefferson County County Attorney, Mathew Johnson. Johnson provided affidavits for subpoenas for MDC, the Boulder Clinic, and Dr. Terrance Scott. Agents Danielson and Matteson signed the affidavits and returned them to Johnson. (Copies of the affidavits can be found in the Documents section of the case file.)

Johnson also supplied a copy of the court order demanding Whetstone provide a DNA sample for the investigation. (A copy of that order can be found in the Documents section of the case file.)

Johnson also stated that an employee at MDC named Betty Rego had recently called Johnson's office, represented herself as a private investigator, and had asked questions regarding the legal and employment status of S2. Johnson stated if there was a parallel investigation being completed by an employee of MDC, he wanted to know the status of investigation and if there were any facts pertinent to the criminal investigation.

On July 13, 2010, Agents Danielson and Matteson went to the JCSO and retrieved a DNA standard buccal swab submitted by Whetstone. Undersheriff Marquis had collected the buccal swab from Whetstone and tagged it as evidence. Agent Danielson received the buccal swab and booked it into evidence in the Helena DCI office at approximately 1400 hours.

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On July 13, 2010, Agents Danielson and Matteson went to the MDC campus and met with Zeeck. It was explained to Zeeck that Betty Rego may have been a witness in the S2 case. Both Agents told Zeeck that Rego may have information pertinent to the investigation and asked to speak with Rego regarding S2. Zeeck provided a room in the conference room and had Rego relieved of work duties to speak with both Agents. Agent Matteson told Rego she was not a suspect in the case and explained he had heard from the county attorney's office that she may be working on a private investigation of S2. Rego stated she did call the county attorney's office and "may have" represented herself as a private investigator. Rego stated she was not licensed as a private investigator, but had recently performed some investigative work for a friend. Rego stated she has always been interested in investigation and was wondering why S2 had not returned to work, so she called the county attorney to try to obtain an answer. Rego stated she knew nothing about the current investigation and would not try to obtain any other information while representing herself as a private investigator until she received proper credentialing. At the end of the interview, Zeeck interrupted and stated Rego had the right to union representation during her interview with us. Rego stated she didn't need or want union representation and that the interview was over. Shortly thereafter, an employee named Donna Gilmer entered the room and asked why Rego was refused the right to have union representation during the interview. Gilmer stated she had a copy of her contract that entitled her to union representation. Agent Matteson explained Rego was a possible witness in a criminal investigation and that union representation would not be allowed while criminal justice information was being gathered. At that time, Gilmer insinuated that the Agents had purposefully manipulated Rego into the interview without union representation and that no further interviews would be allowed prior to union representation being sought. Gilmer stated she had contacted union and legal counsel. Gilmer stated she had contacted Laura Vachowski, an attorney in Helena and Ruth Hansen, a union representative in Boulder. Agents Danielson and Matteson contacted Bureau Chief John Strandell and briefed him on the meeting and the issues involved.

On July 15, 2010, Agent Danielson checked out evidence to Agent Matteson who transported the evidence to the Montana State Crime Lab in Missoula, MT. (Copies of those documents are included in the Documents section of the case file.)

On July 20, 2010, Agents Danielson and Matteson served the subpoenas on MDC.

On July 21, 2010, Agent Danielson received an email from Mat Johnson at the JCCA's office stating he had been contacted by Bernie Jacobs or DPHHS stating the subpoena was "overbroad." Johnson emailed Agents Danielson and Matteson and asked if the subpoena could be "streamlined." The email was forwarded to Bureau Chief Strandell for review.

On August 9, 2010, Agent Danielson found out the subpoena was being amended by Mat Johnson with input from legal staff of DPHHS. Agent Danielson spoke with Agent Matteson who stated DCI agents were not included in this negotiation process and the

subsequent agreements made between DPHHS and JCCA were made by those entities. The agreed upon terms of materials to be supplied appeared to rely heavily upon DPHHS legal staff screening the materials for what they believed to be sexual misconduct information.

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On August 12, 2010, Agent Danielson received the amended subpoena from county attorney Johnson.

On August 13, 2010, Agent Danielson spoke with Agent Matteson and Arlyn Greydanus regarding the amended subpoena. Most confusing was the reasoning for restriction of documents prior to January 1, 2008. Agents were not able to reconcile that date due to allegations of abuse by Whetstone against R2 in 2006. Agents decided it best to contact Johnson to ask for clarification. Agent Danielson spoke with Johnson who stated the following:

- Agent Danielson asked Mat about the apparently arbitrary date of January 1, 2008 in the subpoena.
  - Johnson stated the reason that date was used is because there was an interview done with one of the alleged victims that established 2008 as a possibility for an assault. Johnson stated the judge referenced that victim and said he would not let Agents go beyond that date. Johnson stated the judges comment was "I am not going to allow you to fish in the files as far back as you want."
- Agent Danielson asked Mat if it would be possible to approach the judge and ask for a time frame in step with the Statute of Limitations of 5 years.
  - Mat stated he raised that exact question with Judge Tucker and was told "No, you need to give me probable cause of incidents that happened and that's as far back as I will go."
- I asked Mat why it appeared Judge Tucker, for lack of a better word, had "flip-flopped" from his original ruling on the original subpoena.
  - Mat stated Judge Tucker is notoriously "very stringent" with law enforcement. Mat stated Judge Tucker usually doesn't get subpoena's that are "so complex". Mat stated when Tucker realized DPHHS had a problem with the subpoena he started to "read it with a fine tooth comb." Mat stated he sat with Tucker for an hour and hashed through the subpoena. Mat stated the first time he signed the subpoena "he wasn't looking over it so closely because he thought probably no one was gonna contest it. It's not gonna be an issue. Once he realized it was gonna be an issue, that was why he flipped back." Mat stated Tucker doesn't like to give out "too many rights to law enforcement."



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- Mat also stated he had to go through the Corrections Subpoena with him to verify it was legitimate.
- Agent Danielson asked Mat if it was safe to assume that only the first paragraph of the subpoena is affected by the January 1, 2008 date.
  - Mat asked Agent Danielson to read it to him, then stated it is only limited to the first paragraph. Mat stated he felt that DPHHS may have an issue with that opinion. Mat then stated we would have to have another affidavit submitted to re-amend the subpoena again.
- Agent Danielson stated that Agents were concerned that being able to establish when [V2] came to MDC may be difficult with the given time frame established in the subpoena.
  - Mat asked Agent Danielson (since he didn't have the information in front of him) to remind him if [V2] was a "solid" witness.
  - Mat asked Agent Danielson to verify with Vachowski when [V2] came to MDC.
    - Agent Danielson responded that if we established [V2] had come to MDC in 2005, Agents would then want all the pertinent information from 2005 forward.
  - Mat stated he raised that issue with the judge, explaining that the clients are not able to differentiate time frames. Mat stated Judge Tucker would not go back beyond those dates without evidence of assaults. Mat then stated if Vachowski isn't going to allow that information, the next move would be to ask the Guardians for consent to get into the files.
- Agent Danielson mentioned that even if patient files are obtained through guardian consent, cross references to Whetstones or [S2]'s files may not be substantiated and would still be limited by the January 1, 2008 timeline.

On August 17, 2010, Agents Danielson, Matteson and Greydanus met with Laura Vachowski, attorney for DPHHS. Vachowski stated documents requested in the subpoena were being gathered by staff at MDC. Vachowski stated some of the requested documentation would be supplied by August 20, 2010. Vachowski stated more documentation would be supplied as it was gathered. Agents reminded Vachowski of speedy trial concerns and advised records needed to be obtained as soon as possible.

On August 23, 2010, Agent Danielson received a small box of documents from DPHHS. The following is a list of provided documents:

- Client Timesheets for: [V1], [R1], [V2], [V3], and [R2].



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- Information files for: Kathy Zeeck, Larry LeRoux, Leigh Ann Holmes, Tim Schmidt.
- Employee Files for: [REDACTED] S2 [REDACTED], and Al Whetstone
- Client Housing Assignments
- Shift Supervisor Information
- Investigative Reports
- Dale Tunnell's Investigative Files
- Reports provided to DPHHS by Tunnell
- Copies of eight (8) Critical Incident Investigation Final Reports.

On August 24, 2010, Agents Danielson and Matteson reviewed all documents provided by DPHHS pursuant to the subpoena. Agents Danielson and Matteson found there was no reference to Whetstone ever attending "Ethical Touch and Boundaries Training" in his employee file. This training was recommended by Reeder and Zeeck following an incident that took place on December 27, 2006 at MDC. The incident alleged Whetstone assaulted resident [REDACTED] R2 [REDACTED] by "touching her butt and telling her about a sexual dream he had about her." Despite Whetstone admitting he told [REDACTED] R2 [REDACTED] he had a dream about her and alluded to it being sexual in nature, the incident was found to be unsubstantiated and no action was taken against Whetstone. Furthermore, if Whetstone's file is complete, the recommended training never took place.

Agents Danielson and Matteson also discovered another alleged incident on December 3, 2008 involving Whetstone and resident [REDACTED] R2 [REDACTED]. [REDACTED] R2 [REDACTED] claimed Whetstone offered her \$.50 to touch her private areas. Despite the incident on December 27, 2006 and the claims made by [REDACTED] R2 [REDACTED] that "Mr. Whetstone is always talking about having sex with her" the incident was unsubstantiated and no action was taken against Whetstone. In fact, despite Whetstone's behaviors, [REDACTED] R2 [REDACTED] is referenced as "an opportunist" who would "take advantage of such situations when staff become complacent or lax." Agent Danielson reviewed the documents submitted in [REDACTED] R2 [REDACTED]'s file and found no other mention of her "opportunistic" personality. However, since the documents relating to Whetstone that were provided to Agents Danielson and Matteson appeared to be screened and only included incidents deemed by legal administrators of DPHHS as "sexual" in nature, it was impossible to determine if other incidents common to the sexually predatory behaviors of Whetstone may have been documented or observed.

On August 31, 2010 Agent Danielson received another small box of documents provided by DPHHS pursuant to the subpoena. The following is a list of provided documents:

- DPHHS Information
- Client Work Schedules for the General Store, Weekly Work Schedules, Staff Sign in for Paper Shredding and Sorting
- Keith Reeder Investigatory Files
- Bobbie Janacaro Information
- Kathy Zeeck Information #2
- Sharon Carson Information

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On September 1, 2010 Agent Danielson received an envelope of documents provided by DPHHS pursuant to the subpoena. The following is a list of the provided documents:

- All Whetstone's employee file from 2000-2008.

On September 1, 2010 Agents Danielson and Matteson reviewed the documents provided on August 31, 2010 and September 1, 2010. Of particular interest to Agent Danielson was a document stating Whetstone was "terminate" from employment on August 23, 2002.

On September 3, 2010 Agent Matteson received the results for Whetstone's court ordered STD testing from Mountain Public Health Laboratory. The results were positive for Herpes types I and II. The report was faxed to Agent Danielson who placed the copy in the Documents Section of the case file.

On September 9, 2010 Agent Danielson spoke with Vachowski regarding the documents provided pursuant to the subpoena. Agent Danielson asked Vachowski if there may be more documentation to provide information regarding the "termination" document in Whetstone's file. Vachowski stated the document verbiage was confusing and really referenced Whetstone's resignation from MDC. Vachowski stated Whetstone voluntarily resigned at that time to move to Tennessee. Vachowski stated there was no documentation to support him being terminated and felt the verbiage in those documents was misleading.

Please refer to Agent Matteson's summary of the case in the Investigative Reports Section of the case file.

This case will be submitted to the Jefferson County Attorney's Office for consideration of additional charges against Whetstone to include: Sexual Intercourse without Consent; One additional count for digital penetration against [REDACTED] V1, and two counts against [REDACTED] V2, and Infected Person Exposing another to STD; One count each for both previously named victims.

In addition, Agents believe consideration should also be given regarding Keith Reeder's actions as a mandated reporter.

Additional materials and documents, to include crime lab reports, will be forwarded to the Jefferson County Attorney's Office as they are received by DCI.

End of Report

  
Cody Danielson

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Forensic Interview Summary.

Interviewer: Dana Toole, LCSW  
Montana Division of Criminal Investigation  
MCSART Coordinator  
PO Box 201417  
Helena, MT 59620-1317  
406-444-1525 [dtoole@mt.gov](mailto:dtoole@mt.gov)

Date of Interview: June 15, 2010  
Time of interview: 4:30 p.m.

Others present: Cody Danielson - Investigator  
Phil Matteson - Investigator

Client: R2  
Location: Montana Developmental Center - Boulder, MT  
Administration Building

Documentation:

R2's forensic interview video recording is enclosed on a DVD. It is necessary to have the Videolan software to play the DVD.

Setting:

R2 was interviewed in a classroom located in the Administration Building on the campus of the Montana Developmental Center. Present in the room were: Dana Toole and R2.

Observing the interview through a one way mirror and also on a closed circuit computer system were: Phil Matteson - DCI Investigator, and Cody Danielson - DCI investigator.

Disclosure:

The administrator charged with introducing the clients to the interviewer entered the interview room and notified the interviewer that there was concern the R2 may be very stressed by the interview. The interviewer informed the administrator that the interview would be terminated if R2 became visibly stressed or exhibited any symptoms of anxiety.

R2 was able to participate in the forensic interview.

R2 named her housemates and the staff who care for her.

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R2 described her activities which included listening to music on her headphones, shopping, and visiting with her Mom every few months.

R2 disclosed that a client named R6 has touched her on the arm and on the back and that makes her feel uncomfortable and crosses her boundaries. R2 has talked with staff about R6.

R2 described various buildings on campus including the Rec Center, the OT/PT building, and the General Store.

R2 described that the General Store had been taken away from the clients because the store was not making enough money. The store sold 'candy and stuff.' R2 stated that the only job currently left at the store is to sort donations. R2 described that she had been a cashier at the General Store and that she misses that job.

In response to a question about anyone that made her feel uncomfortable R2 replied that a staff named Al Whetstone had made her feel uncomfortable. R2 disclosed that she had repeatedly asked Al Whetstone for money, although she was aware that it was against the rules for clients to ask staff for money. One time, R2 asked Al Whetstone for .50 cents and he responded that he would give her the money in order for him to touch her 'boobs' and her 'behind.' R2 stated that she told Al Whetstone that 'in order for me to give you .50 cents you have to let me touch your boobs and your butt.' R2 stated that she replied to Al Whetstone that 'that's not a good deal, I said no, like no, if you want to give me .50 cents just because you want to touch my boobs and my butt that's not going to happen.' R2 reported that Mr. Whetstone did give her the .50 cents, but told her it was the last time.

R2 reported the incident to her staff, Ashley, in the laundry room on her unit. Later Keith Reeder talked to her about the incident and told R2 that 'you told me too late, I mean if this ever happens again, I mean you need to let us know before ahead of time, when the day that it happens. You need to tell somebody in Voc.....' 'But I didn't tell anybody because I was too scared to talk to any of them so I told Keith Reeder and the investigator that I felt more comfortable telling my staff at the unit because I work with them most and they help me out with my problems and all.....'

R2 stated that the investigator was a girl and that she had told R2 she would take care of it. R2 reports that the investigator had told Keith Reeder that Al Whetstone and R2 could not have any contact. R2 does not remember the investigator's name and reports that the investigator does not work at MDC.

Keith Reeder asked R2 to come to his office and informed her that she and Al Whetstone could not have any contact. After awhile Al and R2 did resume contact. R2 reports that everything was going OK until she asked Al Whetstone to stop kicking her in the butt. R10 and R9 were in the General Store playing the guitar and R2 was working. R2 stated that Al Whetstone's foot hit her butt and that he had a boot on. R2 told Kristie Roberts that she wanted Al Whetstone to stop kicking her in the butt. R2 does not

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know how long ago she reported the kicking to Kristie. R2 states that after Kristie was informed then Al Whetstone did stop the kicking.

The interviewer asked R2 to try to state how long ago Al Whetstone had asked to touch her boobs and butt in exchange for money. R2 stated that she believed the incident had occurred sometime in 2009 somewhere around August or September.

R2 stated that Keith Reeder had informed her that Al Whetstone was not to have any contact with her, but no one ever informed her that contact between Al Whetstone and R2 could resume having contact. R2 resumed asking Al Whetstone for money at some point.

R2 also told R7 (sp) a client in her unit about the troubles with Al Whetstone. R2 reports that R7 'had a thing' for Al Whetstone. R2 reports that she informed Al Whetstone that R7 liked Al and wanted to have a wedding ring from him etcetera.

R2 states that no one else at MDC has ever done touching that made her feel uncomfortable. R2 states the sometimes when there was something at the General Store she wanted like a bracelet then Al would let her just take it home.

R2 states that V2 is another client who sometimes makes her feel uncomfortable by hanging on her and hugging her and that V2 does that to everybody.

The interviewer left the room to consult with observers.

The interviewer asked R2 to describe how the kicking with Al had felt. R2 stated that it felt uncomfortable, scared, nervous and felt like she was going to get in trouble. R2 stated that she asked Al Whetstone why he was doing this to her? R2 reported that Al told her that she reminded him of other girls that he dated. R2 states that she told Al that she is a client at MDC and is not like the other girls he knows.

The interview was closed.

## Forensic Interview Summary

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Interviewer: Dana Toole, LCSW  
Montana Division of Criminal Investigation  
MCSART Coordinator  
PO Box 201417  
Helena, MT 59620-1317  
406-444-1525 [dtoole@mt.gov](mailto:dtoole@mt.gov)

Date of Interview: June 15, 2010  
Time of interview: 13:18

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Others present: Cody Danielson – Investigator  
Phil Matteson – Investigator  
Michelle Miller – Forensic Interviewer

Client: [REDACTED] V2

Location: Montana Developmental Center – Boulder, Montana  
Administration Building

### Documentation:

[REDACTED] V2's forensic interview is enclosed on a DVD.

### Setting:

[REDACTED] V2 was interviewed in a classroom located in the Administration Building on the campus of the Montana Developmental Center. Present in the room were: Dana Toole and [REDACTED] V2.

Observing the interview through a one way mirror and also on a closed circuit computer system were: Phil Matteson - DCI Investigator, Cody Danielson – DCI investigator, Michelle Miller, LCPC, LCSW – Forensic Interviewer.

### Disclosure:

[REDACTED] V2 was able to participate in the forensic interview. Approximately 22 minutes into the interview [REDACTED] V2 disclosed sexual abuse by Mr. Whetstone. [REDACTED] V2 stated that Mr. Whetstone 'undid her pants' and 'stuck his penis in me'. [REDACTED] V2 states that she was with Mr. Whetstone in the paper shredding room. [REDACTED] V2 reports that Mr. Whetstone's first name is Allan. [REDACTED] V2 stated that Mr. Allan Whetstone asked her to have 'sex' with him. [REDACTED] V2 defines sex as 'when he takes his pants off' and states that 'it makes me feel uncomfortable, so I can't pee.' [REDACTED] V2 states that Mr. Allen Whetstone 'he unbuttoned my pants' she also states she said "Dude, don't take my pants off." Responding to the interviewer's question, [REDACTED] V2 stated that Mr.

Whetstone's penis touched her vagina which is the part of her body used to pee. V2 also stated that a penis is used to pee. V2 stated that Mr. Whetstone touched her that way more than one time.

V2 states that she told staff about the touching with Mr. Whetstone. V2 told staff named Debbie, Charlie, Ivy and Matthew.

V2 stated that after the touching with Mr. Whetstone in the shredding room, she put her pants back on. V2 also stated that Mr. Whetstone's pants were 'all raggedy and were blue like my shirt.' V2 was referring to the blue shirt she was wearing during her forensic interview.

V2 left the interview room to go to the bathroom to get Kleenex to blow her nose. V2 stated that she had allergies.

V2 stated that when she was in the shredding room with Mr. Whetstone, he would not let her go home.

When asked to tell about the very last time Mr. Whetstone was in the shredding room with V2, she said 'makes me grossed out.' V2 also stated that the touching 'It hurted so I can't pee... that it smelled like dead fish.' V2 pointed to the table in the interview room when she stated that she was lying down on a table and that there were 'a bunch of papers' on the table. V2 stated that Mr. Whetstone asked to 'have fun with her.' V2 stated that when Mr. Whetstone said he wanted to have fun with her that he meant that he 'wanted to stick his penis in me.' Mr. Whetstone did not ever make her do anything to him. V2 stated that she felt 'not too good' and that she 'started hurting like crazy.'

V2 stated that Mr. Whetstone would lick his hands and then put his hands on his penis and then put his penis into V2.

V2 stated that she and her friend V1 had both had the same thing happen with Mr. Whetstone 'the exact same way' as had happened to her.

V2 demonstrated her understanding prepositions: in, out, next to, under, on top of.

V2 stated that Roger Johnson does not 'do that to us.'

V2 stated that she would tell Mr. Whetstone that she had to go to lunch, and that he would tell her no she could not go to lunch.

V2 stated that the paper shredding room is in the Voc Building.

The interviewer left the room to consult with the observers. V2 also left the interview room. The interviewer returned to the room. V2 also returned to the room.

V2 stated that Mr. Whetstone had told her 'don't tell, don't tell.'

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The interviewer introduced an anatomically correct boy doll and girl doll to [V2]. The interviewer asked [V2] to demonstrate how the girl doll was and how Mr. Whetstone was on the table in the shredding room.

[V2] demonstrated that her body was on the edge of the table, and that Mr. Whetstone was standing next to the table between the girl doll's legs. [V2] reported that she had seen the dolls before when Libby showed them to her.

The interview was closed.



Forensic Interview Summary

Interviewer: Dana Toole, LCSW  
Montana Division of Criminal Investigation  
MCSART Coordinator  
PO Box 201417  
Helena, MT 59620-1317  
406-444-1525 [dtoole@mt.gov](mailto:dtoole@mt.gov)

Date of Interview: June 15, 2010  
Time of interview: 2:50 p.m.

Others present: Cody Danielson – Investigator  
Phil Matteson - Investigator  
Michelle Miller – Forensic Interviewer

Client: [REDACTED] R1  
Location: Montana Developmental Center – Boulder, MT

Documentation:

[REDACTED] R1's forensic interview video recording is enclosed on a DVD. It is necessary to have the Videolan software to play the DVD.

Setting:

[REDACTED] R1 was interviewed in a classroom located in the Administration Building on the campus of the Montana Developmental Center. Present in the room were: Dana Toole and [REDACTED] R1.

Observing the interview through a one way mirror and also on a closed circuit computer system were: Phil Matteson - DCI Investigator, Cody Danielson – DCI investigator, Michelle Miller, LCPC, LCSW – Forensic Interviewer.

Disclosure:

[REDACTED] R1 was able to participate in the forensic interview. [REDACTED] R1 did not disclose sexual abuse.

During the forensic interview [REDACTED] R1 repeatedly stated that she wanted to be moved to Warm Springs Hospital.

[REDACTED] R1 was able to name clients and staff members present at Montana Developmental Center.

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The interviewer used a number of open ended questions during the interview with [R1]. [R1] did not demonstrate the ability to respond to open ended questions. After consultation with the observers, the interviewer moved to focused and directed questions with [R1].

The topic of concern introduced by the interviewer was a drawing [R1] had made on the wall of a room. The reported drawing, according to case notes at MDC, was of a penis and had the words 'Allan's penis and [R1]'s vagina.'

When questioned directly about the drawing on the wall, [R1] responded:  
"I don't know."  
"It was when I had a room all by myself."

When directly questioned about writing "Allan's penis and [R1]'s vagina" on a wall [R1] responded that the Allan in the drawing on the wall is the [R1]. [R1] also responded that the drawing reference to [R1]'s vagina was about a different [R1].

The interviewer terminated the interview after directed and focused questions did not elicit a disclosure of sexual abuse or sexual assault from [R1].

August 11, 2010

Forensic Interview Summary

Interviewer: Michelle Miller, MSW, LCPC, LCSW  
24 E. Broadway Street, Butte, MT 59701  
406-560-6600 mmiller@buttechc.com  
Date of Interview: June 15, 2010  
Time of interview: 1:30 p.m.

Others present in observation room: Cody Danielson, DOJ  
Dana Toole, DOJ  
Phil Matteson, DOJ

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Adult: [REDACTED] V1  
DOB: [REDACTED]  
Location: Montana Developmental Center, Boulder, MT

Documentation:

The forensic interview was taped. Department of Justice took custody of the DVD.

Setting:

V1 was interviewed in a classroom in the Administration Building at Montana Developmental Center in Boulder, MT. Present in the room were: Michelle Miller and V1. She introduced herself to me as V1 so she was referred to as V1 during the interview.

Montana Developmental staff person, Bobbie Janacaro, informed me V1 takes frequent bathroom breaks. This occurred during the interview as can be seen on the DVD. The bathroom was located across the hall from the classroom building. A window in the classroom door allowed me to observe V1 walking across the hall and into the bathroom. V1 did not talk to anyone during her bathroom breaks and immediately returned to the classroom.

Disclosure:

V1 was able to participate in the forensic interview. She reported that "a friend of mine, Al Whetstone had sex with me." "He is a jerk. He had no reason to have sex with me." It happened in the party room. She described the party room as being next to the paper shredding room. There were balloons and boxes in the party room. Al told V1 to go into the party room with him. Only V1 and Al Whetstone were in the party room. She stated that he pulled her pants and underwear down, pulled his pants down, and put his penis in her crouch. V1 reported that her crouch is used to go to the bathroom. She reported that his penis is used to go to the

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bathroom. She said it hurt when he put his penis in her crouch. She demonstrated the sex using two dolls. She said she was lying down on her back on the wood, he was standing up, and he put his penis in her crouch. There was a blanket on top of the wood. She demonstrated to the Forensic Interviewer knowledge of inside and outside. She reported that his penis went on the inside of her body. Al kissed V1 on the lips. Al told V1 if she told anyone, he would get in trouble. V1 pulled her clothes back on. He pulled his pants on and walked out of the party room with V1. The sex happened one time.

Al told V1 if she had sex with him, he would give her skittles. Al kept the skittles in his pocket. He put the skittles in V1's pocket after having sex.

After V1 went back to the unit, a staff person named Caroline or Karen stopped V1 to see what was in her pocket. The staff person told her to throw away the candy. According to V1, the candy was from Al Whetstone. "It was half opened." He opened candy and gave other half to V1.

When asked if she knew if anyone else had sex with Al Whetstone, she reported her best friend V2 told her he had sex with her once.

V1 told LeAnn, LeAnn's sister, the cop, and the doctor about the sex. V1 reported, "I have my menses because of him. I just started it. It is his fault because he had sex with me."

Michelle Miller, MSW, LCPC, LCSW  
24 E. Broadway Street  
Butte, MT 59701  
(406)560-6600

August 11, 2010

Forensic Interview Summary

Interviewer: Michelle Miller, MSW, LCPC, LCSW  
24 E. Broadway Street, Butte, MT 59701  
406-560-6600 mmiller@buttechc.com

Date of Interview: June 15, 2010  
Time of interview: 3:30 p.m.

Others present: Cody Danielson  
Dana Toole  
Phil Matteson

Adult: [REDACTED] V3  
DOB:  
Location: Montana Developmental Center, Boulder, MT

Documentation:

The forensic interview was taped. Department of Justice took custody of the DVD.

Setting:

[REDACTED] V3 was interviewed in a classroom in the Administration Building at Montana Developmental Center in Boulder, MT. Present in the room were: Michelle Miller and [REDACTED] V3.

Montana Developmental staff person, Bobbi Janacaro, brought [REDACTED] V3 into the classroom for the interview.

Disclosure:

[REDACTED] V3 verbalized fear of being in trouble. She was reassured that she wasn't in trouble with me. When asked about touching, she denied stating "I am a good person." Later she said, "I am being good." She stated that she did not want to talk about touching. She stated, "I am nervous today." [REDACTED] V3 appeared uncomfortable because she didn't know me. It appeared that she was confused about my role and being in the classroom in the Administration Building.

[REDACTED] V3 verbalized fear of being in trouble during the interview. As a result, it appeared that she was guarded. It is recommended that a repeat interview be considered in a space that is more familiar to her. Also, if possible, using the same interviewer so that there will be some familiarity.

Michelle Miller, MSW, LCPC, LCSW  
24 E. Broadway Street

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Butte, MT 59701  
(406)560-6600

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August 11, 2010

Forensic Interview Summary

Interviewer: Michelle Miller, MSW, LCPC, LCSW  
24 E. Broadway Street, Butte, MT 59701  
406-560-6600 mmliller@buttechc.com

Date of Interview: June 21, 2010

Time of interview: 10:20 a.m.

Others present in observation area: Cody Danielson

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Adult: V3

DOB:

Location: Montana Developmental Center, Boulder, MT

Documentation:

The forensic interview was taped. Department of Justice took custody of the DVD.

Setting:

V3 was interviewed in the case managers office at Montana Developmental Center in Boulder, MT. This was a location that was more familiar to her. Present in the room were: Michelle Miller and V3.

Montana Developmental Center staff person, LeAnn, brought V3 into the office for the interview.

Disclosure:

V3 recognized me from the week before. She reported that a former client of MDC, R5, who she described as [REDACTED], touched her "down below." "He hurt me." When asked what she meant by down below, she did not clarify so a gingerbread figure was drawn. She put an "X" to show "down below." She put the "X" on the vaginal area. She said his "thing" touched her down below. She said "we had sex." She said he tried to bribe her with a can of pop. She reported that a staff person, Debbie, caught them. When asked to demonstrate on dolls, V3 pointed to the vaginal area. She said that R5 had her put her mouth on his penis. She said he had her lick his penis.

She introduced S2 name by saying "I like S2 he's alright. He's kind, we don't have to talk about that." When asked about whether or not there was touching with S2, S2 said no and immediately diverted to other topics. After denying that it happened with S2, she said that touching did happen with S2. V3 was nervous talking

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about it. On the gingerbread drawing, V3 put a red "X" where S2 touched her. It was the vaginal area. She used a green marker to show part of S2 that touched her. She put it in the area of the penis. V3 demonstrated the touching using the dolls. She pointed to penis on the doll and said he put it in her vaginal area. It happened in the family room in unit four. No one else was present. V3 said her mouth went on his "wiener." She said his mouth went on her mouth.

V3 identified another staff person by the name of Al Whetstone. She denied that he touched her.

She reported that there is a [REDACTED] by the name of R4 (sp). She denies any touching by him.

Considering her cognitive delays and the four different Al's identified by V3, the decision was made to show her pictures of R4, current S2, S2 and Al Whetstone to help clarify who she was saying touched her. I introduced the pictures to V3. I did not know the people in the pictures. When she was shown the pictures, she identified R4 as living in [REDACTED]. She said R4 touched her on her arm. She denied touching of private parts. When she was shown the picture of R5 (?), the former [REDACTED], she said "that's who did it." He touched her in vaginal area with his penis. It happened in the back of the warehouse. Staff person Debbie saw them do it. She identified Al Whetstone and said he was staff. She denied that Al Whetstone touched her body. She then identified S2 as staff. She said S2 touched her vaginal area in the past. She pointed to his mouth and said it went on her vaginal area. She reported that his penis touched her vaginal area. She reported that her mouth touched his mouth. She reported that it happened in the family room. She reported that it happened one time.

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# DIVISION OF CRIMINAL INVESTIGATION

DEPARTMENT OF JUSTICE  
STATE OF MONTANA

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## MONTANA DEPARTMENT OF JUSTICE

Supplemental Report #2.

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DISSEMINATE ONLY IN ACCORDANCE  
WITH 44-5-301 THROUGH 305 MCA

CASE NO: MF 10-06-01  
DATE: October 26, 2010  
AGENT: Cody Danielson  
SUBJECT: Medicaid Fraud, Sexual Intercourse without Consent, Sexual Assault, Infected Person Expose another to Sexually Transmitted Disease, Failure of Mandated Reporter to Report

SUSPECT:

Whetstone, Allen Ray

### DETAILS:

On October 5, 2010, Agent Danielson received a copy of two reports completed by Keith Reeder from the Montana Development Center (MDC.) The reports involved resident [REDACTED] R1 and former resident [REDACTED] R3. The reports stated Reeder interviewed [REDACTED] R1 regarding allegations of Al Whetstone sexually assaulting [REDACTED] R1. The report also stated [REDACTED] R1 disclosed sexual assault by Whetstone. On October 8, 2010, Agent Danielson sent an email to Laura Vachowski, counsel for DPHHS, requesting copies of the recorded interview between Reeder and [REDACTED] R1, copies of all supporting documentation used in the investigation of the alleged assault, as well as any other reports and supporting documents generated as a response to the reports generated by Reeder.

Agent Danielson also requested clarification on a report authored by Reeder regarding [REDACTED] R3. Agent Danielson noted that on the fourth page of the report there was reference made to an allegation of a sexual assault happening on April 4, 2003. The report was lacking information regarding the assault and left questions as to who the suspect was, as well as the details of the incident. In the "Administrative Comments" section of the report there is mention of [REDACTED] R3 contracting human papillomavirus (HPV) as a client at MDC as well as suffering an injury to her thigh. Both of these allegations were brought to the attention of DCI Agents at or near the onset of the case, but reports and detailed information were never provided due to the



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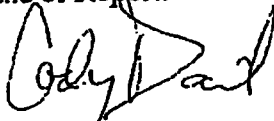
subpoena limitations set forth by DPHHS. A request was made to DPHHS for all reports, records and supporting documentation regarding the incidents chronicled in this report for inclusion in the case file. Lastly, inclusion of recordings of any kind from either the original cases and/or the most recent investigations was also requested.

On October 21, 2010, Agent Danielson received the requested documentation regarding R1. In a cover letter authored by Vachowski, information regarding the allegation of sexual assault of R3 was denied. Vachowski stated that information did not fall within the time frame scope of the Amended Subpoena. Vachowski went on to state that Alan Whetstone was not the individual alleged to have sexually assaulted R3.

All of the provided information was reviewed by Agent Danielson. It was noted that R1's disclosure to Reeder was subsequent to 2 prior forensic interviews by certified forensic interviewers. None of the remaining materials provided any additional evidentiary value to the current investigation.

All documentation was added to the case file and a copy of the documentation, along with this report, was forwarded to the Jefferson County Attorney's Office on November 10, 2010.

End of Report.

  
Cody Danielson  
Agent



***Disability Rights Montana v. Montana Department of Justice***

***Cause No. DDV-2012-87***

**Montana First Judicial District Court**

**Lewis and Clark County**

**Order – April 25, 2012**

**(allowing dissemination of redacted DOJ Report)**

**\*This report contains information that is sexual, and sometimes graphic, in nature.**







NANCY SWEENEY  
CLERK DISTRICT COURT

2012 APR 25 P 4:14

MONTANA FIRST JUDICIAL DISTRICT COURT, FILED  
LEWIS AND CLARK COUNTY BY Ollyue

DEPUTY

DISABILITY RIGHTS MONTANA,  Plaintiff,  v.  MONTANA DEPARTMENT OF JUSTICE,  Defendant.	Cause No. DDV-2012-87  Hon. James P. Reynolds  <b>ORDER ON STIPULATION AND MOTION TO DISMISS</b>
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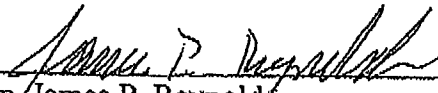
The Parties have stipulated to a redacted version of the investigative report at issue for *in camera* review by this Court. After reviewing the redacted report and the reasons provided therefore, this Court agrees that the report as redacted may be disseminated because the merits of disclosure outweigh the right to privacy of the named state employees.

WHEREFORE, this matter coming before the Court on the parties' combined stipulation and motion to dismiss, the Court having reviewed the filings and record in this matter, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED that the redacted report, provided by stipulation of the parties, may be disseminated to the public with each party bearing its own

costs. There being no remaining issues, this case is DISMISSED.

Dated this 2<sup>nd</sup> day of April, 2012.

  
Hon. James P. Reynolds  
District Court Judge

c: J. Stuart Segrest  
Andree Larose  
Anita Roessmann